

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
 YAVAPAI COUNTY, ARIZONA
 FOR THE COUNTY OF YAVAPAI

2011 DEC 29 AM 8:26

SANDRA K HARKHAM, CLERK

BY: Stephanie Kling

STATE OF ARIZONA,)

Plaintiff,)

vs.)

Case No. V1300CR201080049

JAMES ARTHUR RAY,)

Defendant.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
 BEFORE THE HONORABLE WARREN R. DARROW

TRIAL DAY THIRTY-FOUR

APRIL 21, 2011

Camp Verde, Arizona

REPORTED BY
 MINA G. HUNT
 AZ CR NO. 50619
 CA CSR NO. 8335

PROCEEDINGS

THE COURT: We're on the record in State versus James Arthur Ray, with Mr. Ray present, the attorneys present, to discuss briefly some legal matters. One thing had to do with marking exhibits.

Has that been cleared up? How that's going to be done?

MR. HUGHES: Thank you, Judge. This was with -- a discussion with -- a different clerk yesterday wanted direction from the Court on the record of how the Court would prefer certain physical objects, namely, a piece of wood and a rock, how those should be marked.

We have them in cardboard boxes right now. Seems to me perhaps the easiest way would be just to put the marking sticker on the cardboard box. We could also put them in a large -- we have a large, clear plastic trash bag -- for want of a better word -- that we could also wrap them in.

THE COURT: That would be fine. If you want something on the object itself, we have big rubber bands if you want to keep that tagged. I don't think it's going to be confused with other evidence. That's fine. Of course, you have the

photographs and everything for purposes of the record?

MR. HUGHES: To my understanding, yes, sir. There are photographs. It would be our preference just to leave them in the box and have the sticker put on the box. That probably would be the best way.

THE COURT: Mr. Kelly?

MR. KELLY: Whatever you guys decide.

THE COURT: Okay. We'll do that.

And then Ms. Rybar indicated, Ms. Polk, you wanted to indicate you're having difficulty with emails and you just wanted to make sure everybody understood that?

MS. POLK: Yes, Your Honor. I have spoken with the defense attorneys, but since early Tuesday morning the county is not able to receive emails or access any documents, for that matter. So I'd ask them anything they had sent to us as of Monday night, to make sure they get it to us in hardcopy and not assume that we've received anything since early Tuesday morning.

Also the Court at one point had ordered the parties to provide pleadings to the Court and counsel via email, which we cannot do. We are

providing hardcopies.

THE COURT: Okay. Thank you. Ms. Polk, do you have the supplement that the defense filed -- supplement to motion for reconsideration? Do you have that?

MS. POLK: We do.

THE COURT: Okay. And then the state filed a response to the motion for reconsideration that I've received this morning. Do you have that?

MR. KELLY: We do.

THE COURT: That brings me to what I want to say. There has been extensive briefing on this issue, and I've gotten through some of it. There has also been fairly extensive briefing on the Brady issue. I have read that, all of this in the last -- from yesterday and then this morning.

Because I need to read and consider this carefully, it's just going to be that there is not going to be prior sweat lodge testimony today. That just cannot be offered today.

This briefing is not going to have any meaning if I make a ruling without it. And that is the -- I was going to say problem with pretrial rulings. It's the nature of pretrial rulings that things happen at trial that bear on the

appropriateness of a pretrial ruling. It just happens. That's been noted in written rulings that I've made before, that this is the ruling based on what I have at the time. So I just want to alert the parties to that. I need a chance to read through this.

Mr. Hughes, I think you might be doing the briefing on this. In looking through very briefly, you did take up in your response the recent developments with Mr. Haddow to some extent; correct?

MR. HUGHES: Yes, Your Honor.

THE COURT: Okay. I want to make sure that you did address that, because we did have a discussion on whether to have responsive briefing and those things.

MR. HUGHES: Your Honor, what has not, however, been addressed -- I've had a chance to look through last night the pleadings filed by the defense. There is a discussion about opinions by Dr. Mosley.

THE COURT: Yes.

MR. HUGHES: We've not had an opportunity to respond to that. And so we intend to get something filed relatively soon on that pertaining to

1 Dr. Mosley. I realize that's an issue that
2 pertains on this as well that needs to be
3 addressed.

4 THE COURT: I'm glad you brought that up. I
5 need to know the position right away, as soon as
6 possible. But for today with new witnesses -- I
7 understand we're in the middle of an examination
8 now. That's going to proceed the way it was
9 planned. It's going to be that way, whatever
10 redirect is presented.

11 But with regard -- specifically, with the
12 Hamiltons, I need a chance to look at this before
13 there is prior sweat lodge testimony.

14 MR. KELLY: Judge, in regards to the redirect
15 of Ms. Mercer, of course, I can see the photographs
16 pulled by the state. So I anticipate that there is
17 going to be discussions regarding the prior
18 incidents in 2007 and 2008 in response to my
19 cross-examination.

20 And, again, Judge, for the record, I
21 would make an objection to that line of
22 questioning. I believe it's gone beyond the scope
23 of what the Court articulated as permissible.

24 We discussed this yesterday about the
25 quandary the defense was in regards to cross. And

10

1 what I'm really getting at, Judge, is I don't want
2 to keep objecting during redirect each and every
3 time one of the exhibits on the prior incidents is
4 displayed to the jury and discussed by the witness
5 and Ms. Polk.

6 So that the record is clear, again, we
7 object to any reference to a prior sweat lodge
8 incident or any comparison, just to preserve the
9 record, Judge. I know you will not accept a
10 continuing objection, so I can't really make that.
11 But I would like the record to reflect that
12 concern.

13 THE COURT: Okay. And it will. Thank you.

14 MR. LI: Sorry, Judge. One quick issue with
15 respect to the Hamiltons. There is evidence that
16 the Mercers and Mr. Palisch never indicated that
17 there were any problems with '07 or '08.

18 And since that issue is already out
19 there, unless the Court's going to make a ruling
20 along the lines of striking all of the testimony,
21 obviously we're urging the Court to -- at least
22 with respect to those witnesses, these two
23 witnesses, Amayra and Michael Hamilton, do have
24 information that would impeach the Mercers'
25 testimony.

1 THE COURT: I did reread the 408 -- the 404
2 testimony from Ms. Hamilton. I looked at most of
3 that, I think, a great deal of it, I think the
4 pertinent part. And while that would be on
5 cross-examination in any event, and if it gets to
6 that point, that's been -- there has been evidence
7 to that effect, and that would be permissible, I
8 think. But I need to look at all this.

9 Ms. Polk?

10 MS. POLK: Your Honor, it's being suggested
11 that the state cannot ask about prior sweat lodge
12 events in direct with the Hamiltons, but the
13 defense can cross-examine them about that. That
14 doesn't make sense.

15 THE COURT: No. It has to be --

16 MS. POLK: It has to be all or nothing.

17 THE COURT: It does. That's why I'm saying --
18 examinations have been quite lengthy. I'm just
19 saying at this point it's not meaningful to get
20 into that to even raise a cross-examination issue.
21 And if it gets to the point where you're there and
22 you're done with the examination, if we have to
23 recess today, that's what we're going to do.

24 Thank you.

25 (Proceedings continued in the presence of

12

1 jury.)

2 THE COURT: The record will show the presence
3 of the defendant, Mr. Ray; the attorneys, and the
4 jury. Ms. Mercer is on the witness stand.

5 Ms. Polk, you may continue with redirect.

6 MS. POLK: Thank you, Your Honor.

7 REDIRECT EXAMINATION (Continued)

8 BY MS. POLK:

9 Q. Good morning, Ms. Mercer.

10 A. **Good morning.**

11 Q. I just have a few questions for you, and
12 then we'll let you leave.

13 A. **Okay.**

14 Q. I'm going to put up on the overhead
15 Exhibit 242, which is a photograph that Mr. Kelly
16 showed you yesterday. And specifically, he had
17 zoomed in on some of this white material that's
18 showing through -- the landscape fabric.

19 A. **Yes.**

20 Q. Do you see it in this photograph?

21 A. **Yes.**

22 Q. Describe for the jury what it is.

23 A. **A landscape fabric to keep weeds out.**

24 Q. Are you familiar with landscape fabrics
25 outside of Angel Valley?

1 **A. I've used them in my garden.**
 2 **Q.** Describe for the jury what sort of
 3 material this -- what is shown in the photograph
 4 is.
 5 **A. It's a landscape fabric like -- it's**
 6 **something that can rip if you get a rake in it.**
 7 **It's more of a cloth than a plastic. It's a**
 8 **barrier to keep weeds out of an area.**
 9 **Q.** Have you, in fact, seen it in Angel
 10 Valley in the area of the sweat lodge?
 11 **A. Yes.**
 12 **Q.** How or when have you seen it?
 13 **A. When we were building the kiva.**
 14 **Q.** Did you cover that landscape fabric?
 15 **A. I personally did not.**
 16 **Q.** Did it get covered?
 17 **A. Yes, it did.**
 18 **Q.** And how do you know that it got covered?
 19 **A. I saw the piles of sand there for Rotillo**
 20 **to spread out.**
 21 **Q.** When was that?
 22 **A. Sometime before James Ray came.**
 23 **Q.** In what year?
 24 **A. 2008.**
 25 **Q.** This is the 2008 construction?

1 **A. Yes.**
 2 **Q.** Do you know whether that landscape fabric
 3 was there in 2007?
 4 **A. No. I don't know.**
 5 **Q.** And do you know if it was there in 2009?
 6 **A. No. I know -- we never did any other**
 7 **construction or any other work there. But no, I**
 8 **couldn't say for sure it was there or it wasn't**
 9 **there. I don't know.**
 10 **Q.** Did you ever remove it?
 11 **A. No, I did not.**
 12 **Q.** How much -- what was the material that
 13 was put over the landscape fabric in 2008?
 14 **A. I think it was sand. I'm not familiar**
 15 **with the different types of dirt. I think it's**
 16 **thick -- thicker than sand sand but not actual**
 17 **rocks or gravel.**
 18 **Q.** And do you recall how much was -- in
 19 terms of inches, how much was put over the
 20 landscape fabric?
 21 **A. Enough to cover it. But I don't know. I**
 22 **would say probably two inches to be able to cover**
 23 **it.**
 24 **Q.** And do you know whether the sand or the
 25 material that was put at that site in 2008 to cover

1 it, was that, then, material that was inside the
 2 sweat lodge for Mr. Ray's 2008 sweat lodge
 3 ceremony?
 4 **A. I know it was put around the area and --**
 5 **yes.**
 6 **Q.** Mr. Kelly showed you some things that
 7 were written on the easel yesterday about the kiva
 8 and the coverings. Do you recall that line of
 9 questioning?
 10 **A. Yes.**
 11 **Q.** The kiva that was used by -- for the
 12 ceremony performed by Mr. Ray in October of 2009,
 13 just clarify for the jury when that kiva was
 14 constructed.
 15 **A. It was in August of 2008.**
 16 **Q.** And every -- was every ceremony performed
 17 at Angel Valley from August of 2008 through October
 18 of 2009 performed in that exact kiva?
 19 **A. Yes.**
 20 **Q.** And that would be for facilitators other
 21 than Mr. Ray as well?
 22 **A. Yes.**
 23 **Q.** As for the coverings, you testified
 24 yesterday that you recognized some of them. Do you
 25 recall that?

1 **A. Yes.**
 2 **Q.** What is it that you recognized?
 3 **A. Well, I know the blankets were some of**
 4 **the same blankets because they were our personal or**
 5 **my mother-in-law's blankets. After she died her**
 6 **house was cleared out. And we gave 8 to 10**
 7 **blankets and put them in the sweat lodge pile.**
 8 **Q.** In what year?
 9 **A. She died in 2006, but we brought them**
 10 **after the 2007 sweat lodge. We used them in 2008**
 11 **and 2009.**
 12 **Q.** Were you aware of other blankets being
 13 added at any point to the pump house where the
 14 coverings were stored?
 15 **A. I was not aware of any other blankets**
 16 **brought other than the ones we brought that were**
 17 **already there when we started.**
 18 **Q.** And the ones that you -- the ones that
 19 were there when you started were used when?
 20 **A. Were used in 2007, 2008, and 2009.**
 21 **Q.** And then you added some at what point?
 22 **A. In 2008.**
 23 **Q.** And all of those coverings that you just
 24 described for the jury, when you had a role in
 25 putting together these sweat lodges for a ceremony,

1 did you use all those coverings?
 2 **A. Yes.**
 3 **Q.** I'm going to put up on the overhead
 4 Exhibit 238 and ask you if you recognize this to be
 5 the sweat lodge used in May of 2009?
 6 **A. This would have been after -- when was**
 7 **the picture taken?**
 8 **Q.** May of 2009. And if you don't recognize
 9 it, that's okay.
 10 **A. I don't recognize it.**
 11 **Q.** My question is, the way the sweat lodge
 12 appears in this photograph, is that similar to all
 13 the ceremonies that you assisted with in Angel
 14 Valley?
 15 MR. KELLY: Objection. Lack of foundation.
 16 MS. POLK: My question is from 2008 on.
 17 THE COURT: Sustained.
 18 **Q.** BY MS. POLK: Does this photograph look
 19 familiar to you?
 20 **A. Yes.**
 21 **Q.** And what do you recognize about it?
 22 **A. The sweat lodge structure and the door.**
 23 **And I know that -- I would use the sleeping bags**
 24 **for the doors because they're heavy. So I would**
 25 **use the sleeping bags for the doors and the other**

1 **blankets and quilts around the rest of it.**
 2 **Q.** Did you ever layer the coverings on the
 3 sweat lodge?
 4 **A. Yes.**
 5 **Q.** And each time that you layered the
 6 coverings on the sweat lodge, did you follow a
 7 particular plan?
 8 **A. A general plan, but not a pattern.**
 9 **Q.** What is the general plan that you
 10 followed?
 11 **A. That -- well, I think it was my idea just**
 12 **because I wanted to look nicer was the blue**
 13 **blankets on the inside. And because they had had**
 14 **them sewn together so it made a continuous -- one**
 15 **long continuous thing, so you could easily make it**
 16 **go all the way around instead of trying to make**
 17 **four blankets cover a hole.**
 18 **So we would put the largest ones around**
 19 **it. One went all the way around it. And first the**
 20 **sheets or light blankets, then the heavier**
 21 **blankets, then the tarps, then the brown rubber**
 22 **tarp.**
 23 **Q.** For all the ceremonies that you helped
 24 put together the sweat lodge, did you always use
 25 all the coverings that you found in the pump house?

1 **A. Yes, we did.**
 2 **Q.** Did you always use all the tarps that you
 3 found in the pump house?
 4 **A. Yes, we did.**
 5 **Q.** I'm going to put up Exhibit 245. You
 6 just talked about the blue blanket. Does that show
 7 the jury what you were referring to?
 8 **A. Yes.**
 9 **Q.** When was it that you started always
 10 putting that blue blanket on the inside first?
 11 **A. 2008.**
 12 **Q.** And you were asked some questions about
 13 the blankets that have words on them. Do you
 14 recognize those blankets?
 15 **A. Yes.**
 16 **Q.** Do you know what those words were?
 17 **A. They were U-Haul moving blankets, I**
 18 **believe.**
 19 **Q.** When did you start using those U-Haul
 20 moving blankets?
 21 **A. They were always used. I just didn't use**
 22 **them in that same pattern. The first year we just**
 23 **put them on as we found them. And then the next**
 24 **year we realized that these were all sewn together.**
 25 **It would make it nice if they went all around in**

1 **the first layer and then the other ones after that.**
 2 **Q.** Did you assemble the sweat lodge, then,
 3 with these moving blankets for the first layer for
 4 all the ceremonies that you did in 2008?
 5 **A. Yes.**
 6 **Q.** And for all the ceremonies that you did
 7 in 2009?
 8 **A. Yes.**
 9 **Q.** You were asked by Mr. Kelly if you knew
 10 when those moving blankets had ever been treated
 11 for anything such as moths. Do you remember that
 12 question?
 13 **A. Yes.**
 14 **Q.** Did you ever smell any chemical smell on
 15 those moving blankets?
 16 **A. No.**
 17 **Q.** Did you ever smell any chemical smell on
 18 any of the blankets?
 19 **A. No.**
 20 **Q.** Mr. Kelly asked you the question that due
 21 to your construction, did you know your
 22 construction created a heat barrier? Do you recall
 23 that question from Mr. Kelly?
 24 **A. Yes.**
 25 **Q.** Do you know what a heat barrier is?

1 **A. No, I don't.**
 2 **Q.** Do you know where the heat inside a sweat
 3 lodge comes from?
 4 **A. The rocks.**
 5 **Q.** And who controls the rocks?
 6 **A. The pourer of the lodge.**
 7 **Q.** And for Mr. Ray's ceremonies who was
 8 that?
 9 **A. James Ray.**
 10 **Q.** Do you know whether inside the sweat
 11 lodge it is hotter in the back than in the front
 12 where the door is?
 13 **A. The door would be open, and the door**
 14 **would be a cooler area than the back.**
 15 **Q.** And do you know whether inside the sweat
 16 lodge it's hotter near the pit with the rocks or
 17 further away?
 18 **A. I don't know. I've never been inside it**
 19 **when the rocks are in it.**
 20 **Q.** And do you know whether heat barriers
 21 existed in the sweat lodge when individuals other
 22 than Mr. Ray performed sweat lodge ceremonies?
 23 **A. No.**
 24 **Q.** Mr. Kelly asked you the question, did you
 25 know that your construction of the sweat lodge

1 prevented proper circulation? Do you remember that
 2 question?
 3 **A. Yes.**
 4 **Q.** Do you know what controls air circulation
 5 within a sweat lodge structure?
 6 **A. No.**
 7 **Q.** And do you know whether the length of
 8 time that a door is open affects air circulation?
 9 **A. I would think it would.**
 10 **Q.** And who controls the length of time that
 11 the door is open during a sweat lodge ceremony?
 12 **MR. KELLY:** Your Honor, I'm going to object.
 13 Lack of foundation. She does not know what
 14 controls circulation. Request the questions and
 15 answers be stricken.
 16 **THE COURT:** Overruled as to the last question.
 17 You may answer that.
 18 **THE WITNESS:** James Ray or the pourer. In
 19 this case it would be James Ray.
 20 **Q.** BY MS. POLK: Do you know whether the
 21 number of rounds of a ceremony affects air
 22 circulation?
 23 **MR. KELLY:** Same objection.
 24 **THE COURT:** You can answer that if you can.
 25 If you're able to, you may answer it.

1 **THE WITNESS:** I think -- I don't know that the
 2 number of rounds would but --
 3 **THE COURT:** Excuse me. It called for yes or
 4 no response. If you can do that.
 5 **THE WITNESS:** No.
 6 **Q.** BY MS. POLK: Do you know whether the
 7 number of participants in a sweat lodge affects air
 8 circulation?
 9 **A. No.**
 10 **Q.** Do you know whether the amount of heat
 11 inside a sweat lodge affects the air circulation?
 12 **A. No.**
 13 **Q.** Are you aware of other facilitators,
 14 other pourers, having problems with air circulation
 15 in the same sweat lodge used by Mr. Ray in October
 16 of 2009?
 17 **A. No.**
 18 **Q.** Mr. Kelly asked you the question, did you
 19 know that your construction of the sweat lodge
 20 increased the carbon dioxide buildup? Do you
 21 recall that question?
 22 **A. Yes.**
 23 **Q.** Do you know how carbon dioxide is created
 24 within an inclosed structure?
 25 **A. No.**

1 **Q.** And do you know whether carbon dioxide
 2 inside a closed structure is created by the
 3 breathing inside that structure?
 4 **A. No.**
 5 **Q.** Do you know what factors would cause
 6 carbon dioxide to build up inside an enclosed
 7 structure?
 8 **A. No.**
 9 **Q.** Do you know whether it's the facilitator
 10 that controls the factors that cause carbon dioxide
 11 to build up in an enclosed structure?
 12 **MR. KELLY:** Your Honor, objection.
 13 **THE COURT:** Sustained.
 14 **Q.** BY MS. POLK: How many times, Ms. Mercer,
 15 have you entered the pump house at Angel Valley for
 16 any purpose?
 17 **A. I went in there at least three times a**
 18 **week for normal -- if there was an event, it would**
 19 **be more often. So over a hundred times in the past**
 20 **I've been in there.**
 21 **Q.** What would be some examples for your
 22 reasons for going into the pump house?
 23 **A. We'd set up, like, a fire ceremony, and**
 24 **we'd put blankets around the fire pit or mainly to**
 25 **get blankets for other events or things that were**

1 **going on -- blankets or tarps or rope. They were**
2 **all in there.**

3 **Q.** What is a fire ceremony?

4 **A.** **Different groups would have them for**
5 **different things. Sometimes it was for a full**
6 **moon. Sometimes it was for the ending of a**
7 **retreat. Different things.**

8 **Q.** And for those ceremonies, would you use
9 the same blankets that were used to build the sweat
10 lodge?

11 **A.** **Yes.**

12 **Q.** Do you know whether those blankets were
13 ever laundered?

14 **A.** **Yes.**

15 **Q.** How do you know that?

16 **A.** **Because I asked the lady to wash them.**

17 **Q.** Do you know how often those blankets
18 would be laundered?

19 **A.** **As needed.**

20 **Q.** Who made that call?

21 **A.** **When I was there, I did.**

22 **Q.** And do you know what laundry detergent
23 was used to launder the blankets in?

24 **A.** **Yes.**

25 **Q.** And what was it?

1 **A.** **All natural, all free of perfume, dyes.**

2 **All -- all with nothing. How do I describe that?**

3 **Q.** Kind of a natural laundry detergent?

4 **A.** **Yeah. No perfume and no dyes. But it's**
5 **the brand name "all." So all with nothing.**

6 **Q.** Have you ever seen the pump house empty?

7 **A.** **No.**

8 **Q.** I'm going to put up on the overhead
9 Exhibit 797. Have you ever seen the pump house
10 looking like this?

11 **A.** **No.**

12 **Q.** Do you know what happened to the tarps
13 and the coverings that were in the pump house?

14 **A.** **I believe they threw them away after the**
15 **investigation.**

16 **Q.** From 2007 to 2009 did you ever see
17 anything in the pump house that appeared to be rat
18 poison to you?

19 **A.** **No.**

20 **Q.** And you were asked a question by
21 Mr. Kelly about granules that appeared to be rat
22 poison. Did you ever see granules?

23 **A.** **No.**

24 **Q.** I'm going to hand you Exhibits 862 to 879
25 that Mr. Kelly pulled up on the overhead and ask

1 you to take a look at those first.

2 **A.** **Okay.**

3 **Q.** Now, you testified, Ms. Mercer, that you
4 provided to Detective Diskin some photographs from
5 Mr. Ray's ceremony in 2008?

6 **A.** **Yes.**

7 **Q.** Have you ever seen these photographs
8 before?

9 **A.** **I think I've seen some of them. You mean**
10 **here?**

11 **Q.** You saw some in court yesterday. Are
12 those the photographs you provided to the state or
13 are those other photographs? Let me do this for
14 you. I'm going to hand you Exhibit 841 to 848 and
15 ask if you recognize that set?

16 **A.** **Those look like mine.**

17 **Q.** Which ones are the photographs that you
18 provided to Detective Diskin?

19 **A.** **The second set.**

20 **Q.** The first set, 862 to 879, had you ever
21 seen before court yesterday?

22 **A.** **No.**

23 **Q.** Or perhaps at a previous --

24 **A.** **At the --**

25 **Q.** I'm going to leave both sets with you for

1 a moment. First, let's talk about the photographs
2 that you provided to Detective Diskin. Do you
3 recall when it was in September of 2008 -- how much
4 time had passed after the end of Mr. Ray's sweat
5 lodge ceremony -- how much time had passed before
6 you started taking photographs?

7 **A.** **I would say a half hour, 45 minutes.**

8 **Q.** And you testified that you had a friend
9 named Anita who took some photographs with your
10 camera?

11 **A.** **Yes.**

12 **Q.** Do you recall when she started taking
13 photographs?

14 **A.** **No.**

15 **Q.** Do you know -- with respect to the other
16 set of photographs, do you know when they were
17 taken?

18 **A.** **I can guess. I mean --**

19 **Q.** Looking at the photographs, do you have
20 some idea when they were taken?

21 **A.** **Yes.**

22 **Q.** And what about the photographs gives you
23 an idea when they were taken?

24 **A.** **The fact that I'm standing there not**
25 **doing anything and the appearance that people**

1 **are -- one lady's walking away. It's after the**
2 **sweat lodge and people are disbursing.**

3 **Q.** Will you take a look at 871. Can you
4 find it in the stack in front of you?

5 And 863. I'll put them up on the
6 overhead. I'm going to put up 863.

7 Do you see somebody spraying a hose?

8 **A. Yes.**

9 **Q.** First of all, the person who is spraying
10 the hose -- can you point that out to the jury.

11 **A. This person.**

12 **Q.** Do you know if that person is male or
13 female?

14 **A. No, I don't.**

15 **Q.** Do you know if that was somebody who was
16 inside the sweat lodge?

17 **A. No, I don't. They look like they were**
18 **because they got dirt on them.**

19 **Q.** Mr. Kelly asked you whether or not these
20 photographs weren't taken immediately because this
21 showed water being sprayed. Do you remember that
22 question?

23 **A. Yes.**

24 MR. KELLY: Your Honor, I believe that
25 misstates the testimony. I never used this

1 photograph.

2 **Q.** BY MS. POLK: I'll put up 871, which is
3 a --

4 THE COURT: Sustained.

5 **Q.** BY MS. POLK: I'll put up a second
6 photograph. I believe it's the one Mr. Kelly used
7 of water being sprayed.

8 **A. Okay.**

9 **Q.** Do you recall whether or not water was
10 being sprayed 40 minutes after the ceremony?

11 **A. Yes.**

12 **Q.** What do you recall about that?

13 **A. They were spraying water until everyone**
14 **left. There was always water being sprayed until**
15 **no -- until everyone had left the area.**

16 **Q.** Do you recall whether people started
17 playing with the water at some point?

18 **A. No. I don't remember.**

19 **Q.** Will you look at that stack in front of
20 you -- the photographs.

21 You were asked questions about what was
22 in the photographs and shown pictures of the people
23 smiling, such as the one that's up on the overhead?

24 **A. Yes.**

25 **Q.** Do you recall whether in 2008 people were

1 smiling after Mr. Ray's sweat lodge ceremony?

2 **A. Yes. People were smiling.**

3 **Q.** And do you recall whether in 2009 after
4 the ceremony people were smiling?

5 **A. I don't recall anyone smiling.**

6 **Q.** You testified -- in a response to a

7 question from Mr. Kelly, you stated that those

8 photographs showed some things that were alarming
9 to you. Do you recall that?

10 **A. Yes.**

11 **Q.** Will you look through those photographs
12 and identify one that explains that testimony.

13 **A. 841.**

14 **Q.** Go ahead and look at the stack, and you
15 can hand me the ones that you recognize.

16 **A. Am I supposed to be doing it just from**
17 **the picture or from my memory?**

18 **Q.** If you hand me the picture, I'll put it
19 on the overhead and ask you some questions.

20 I'll put up on the overhead Exhibit 841.

21 Does that photograph depict something that you
22 found alarming?

23 **A. Yes.**

24 **Q.** Will you show the jury what.

25 **A. In particular I remember these -- this**

1 **lady here, this lady here, and this person back**
2 **here, were worrisome to me.**

3 **Q.** What do you remember about this lady
4 here?

5 **A. She didn't move.**

6 **Q.** For how long, if you recall?

7 **A. Long enough to make me worry. After**
8 **going over and trying to get a reaction or**
9 **something from her, and she just laid there.**

10 **Q.** Do you recall today specifically
11 approaching -- you're talking about the lady in the
12 green suit?

13 **A. Yes.**

14 **Q.** Do you recall today you specifically
15 approaching her?

16 **A. Yes.**

17 **Q.** What did you observe when you did that?

18 **A. Well, when I walked up, she had something**
19 **coming out of the side of her mouth. And I was --**
20 **I tried to get her to talk to me, and there was no**
21 **response.**

22 **Q.** I'm going to put up on the overhead 845.
23 Is that the same lady?

24 **A. Yes.**

25 **Q.** Did you ever get a response from her?

1 **A. I don't remember.**
 2 **Q.** I'm going to put up on the overhead
 3 Exhibit 847. Do you see that her position seemed
 4 to have changed a little bit.
 5 **A. Yes.**
 6 **Q.** Did you ever see her move?
 7 **A. I don't remember her moving.**
 8 **Q.** I'm going to show you Exhibit 864 and ask
 9 you if you see the man in 864, also depicted in
 10 844?
 11 **A. Yes, I do.**
 12 **Q.** 844 is one of your photographs?
 13 **A. Yes.**
 14 **Q.** And 864 is one of the other ones that
 15 were brought here to court?
 16 **A. Yes.**
 17 **Q.** I'm going to put up on the overhead
 18 Exhibit 844. What about this photograph depicts
 19 something that alarmed you?
 20 **A. Well, I remember that the person back**
 21 **here was having a difficult time coming back.**
 22 **Q.** Did you ever approach that area? Do you
 23 recall?
 24 **A. I remember being there. Yes.**
 25 **Q.** And what I had asked you at the stand was

1 whether or not that person, if you also see him in
 2 864. And you said, yes. Is this a close up of
 3 that -- another shot of that scene?
 4 **A. Yes.**
 5 **Q.** Do you recall this man?
 6 **A. When I see the picture.**
 7 **Q.** What do you recall about him?
 8 **A. I remember his concern for the person.**
 9 MR. KELLY: Your Honor, objection. State of
 10 mind.
 11 THE COURT: Overruled.
 12 **Q.** BY MS. POLK: You can go ahead.
 13 **A. I remember his concern or caring for the**
 14 **person that was not coming around.**
 15 **Q.** And do you know if this person was male
 16 or female?
 17 **A. No. I don't know.**
 18 **Q.** Do you know what this man is doing for
 19 that person?
 20 **A. What I observed him doing was rubbing**
 21 **feet and touching. And I just -- I saw concern in**
 22 **his --**
 23 **Q.** Did you observe what happened to this
 24 person?
 25 **A. I don't remember.**

1 **Q.** You had testified about what you saw in
 2 2007. After Mr. Ray finished his ceremony in 2007,
 3 did it look like these photographs from 2008?
 4 **A. Yes.**
 5 **Q.** Were there differences?
 6 **A. Yes.**
 7 **Q.** What was different?
 8 **A. I think it was wetter.**
 9 **Q.** In which year?
 10 **A. 2007.**
 11 **Q.** You were asked a question about whether
 12 or not you could find vomit in the photographs
 13 from 2008. Do you remember that question?
 14 **A. Yes.**
 15 **Q.** Did you see people vomiting in 2008?
 16 **A. Yes.**
 17 **Q.** From Mr. Ray's ceremony?
 18 **A. Yes.**
 19 **Q.** Did you see people vomiting in 2007?
 20 **A. Yes.**
 21 **Q.** Did you see people vomiting in 2009?
 22 **A. Yes.**
 23 **Q.** You were asked a question by Mr. Kelly
 24 about what photographs showed people with eyes
 25 rolled back in their head. Do you remember that

1 question?
 2 **A. Yes.**
 3 **Q.** Did you see people with eyes rolled back
 4 in their head in 2007?
 5 **A. Yes.**
 6 **Q.** And in 2008?
 7 **A. Yes.**
 8 **Q.** From Mr. Ray's ceremonies?
 9 **A. Yes.**
 10 **Q.** And in 2009?
 11 **A. Yes.**
 12 **Q.** Did you talk to participants in 2007
 13 after Mr. Ray's ceremony?
 14 **A. Yes.**
 15 **Q.** Did you talk to participants in 2008
 16 after the ceremony?
 17 **A. Yes.**
 18 **Q.** Did you specifically talk to participants
 19 about how they were feeling?
 20 **A. Yes.**
 21 **Q.** You were asked a question by Mr. Kelly,
 22 how did you know how they were feeling? But it's
 23 your testimony you actually talked to people?
 24 **A. Yes. I did.**
 25 **Q.** I'm going to put back up on the overhead

1 Exhibit 871.
 2 For ceremonies conducted by individuals
 3 other than Mr. Ray, did you ever see participants
 4 come out red or flushed?
 5 **A. Flushed in the face, yes. But not red on**
 6 **the body like that.**
 7 **Q.** Not like that.
 8 Mr. Kelly asked you whether Gary Palisch
 9 had told you it was normal for people to throw up
 10 for sweat lodge ceremonies. Do you recall that
 11 question?
 12 **A. Yes.**
 13 **Q.** When was it that you had that
 14 conversation with Gary Palisch?
 15 **A. During the sweat lodge of 2007.**
 16 **Q.** And what were the circumstances
 17 surrounding that conversation?
 18 **A. I was kind of freaking out at what I was**
 19 **seeing.**
 20 **Q.** Did you say something to Mr. Palisch?
 21 **A. Yes. I said, these people need help.**
 22 **Q.** And how did Mr. Palisch respond?
 23 **A. He said that James --**
 24 MR. KELLY: Your Honor, objection. Relates to
 25 my client. Double hearsay.

1 THE COURT: Sustained.
 2 **Q.** BY MS. POLK: What did Mr. Palisch say
 3 specifically about people vomiting? Or people
 4 vomiting. I'm sorry.
 5 **A. He said that people would vomit.**
 6 **Q.** And did he say for all sweat lodge
 7 ceremonies people would vomit?
 8 **A. No.**
 9 **Q.** Specifically what did he say?
 10 MR. KELLY: Your Honor, I'm going to object on
 11 the basis of hearsay. Gone beyond the scope.
 12 THE COURT: Sustained.
 13 **Q.** BY MS. POLK: Did you ever see
 14 participants vomit for ceremonies facilitated by
 15 somebody other than Mr. Ray?
 16 **A. No.**
 17 **Q.** Do these photographs that you've been
 18 shown here in court show everything that you saw
 19 in 2008 after Mr. Ray's sweat lodge ceremony?
 20 **A. No.**
 21 **Q.** What don't they show?
 22 **A. The life. I mean, pictures are still**
 23 **pictures. And it's a frozen moment in time. And**
 24 **you can't see the people's state of being, their**
 25 **state of mind, how they were acting, how they were**

1 **moving. You just see them still.**
 2 **Q.** Do you recall the question from Mr. Kelly
 3 that if you believe people were in distress
 4 in 2008, that they were too hot, why you did not
 5 speak up?
 6 Do you recall that question?
 7 **A. Yes.**
 8 **Q.** First, let's talk about 2007. Did what
 9 you saw after Mr. Ray's sweat lodge ceremony in
 10 2007 alarm you?
 11 **A. Yes.**
 12 **Q.** And why?
 13 **A. I'd never seen people being put in that**
 14 **physical condition by choice.**
 15 **Q.** Did you speak up?
 16 **A. I asked why they would do this.**
 17 **Q.** And who did you ask that of?
 18 **A. Gary.**
 19 **Q.** Did you make any attempt to seek medical
 20 help in 2007?
 21 **A. I helped the people that came out, but I**
 22 **did not seek medical attention outside of -- no.**
 23 **Q.** Why not?
 24 **A. I didn't feel it was my -- I was, like,**
 25 **the lowest person in the chain of command. I was a**

1 **volunteer.**
 2 **Q.** And the same question for 2008. Did you
 3 see things after Mr. Ray's sweat lodge ceremony
 4 that caused you alarm?
 5 **A. Yes.**
 6 **Q.** And did you speak up?
 7 **A. Yes.**
 8 **Q.** What did you say?
 9 **A. It would have been after and before, just**
 10 **knowing -- you know -- what we were preparing for**
 11 **and then afterwards.**
 12 **Q.** Beforehand who did you express your alarm
 13 to?
 14 **A. The girls in the office.**
 15 **Q.** At Angel Valley?
 16 **A. Yes.**
 17 **Q.** And afterwards who did you express your
 18 alarm to?
 19 **A. The girls in the office.**
 20 **Q.** Did you ever think about calling 9-1-1
 21 in 2008?
 22 **A. No. If it was my sweat lodge, I would**
 23 **have medical attention there if I was going to get**
 24 **it that extreme.**
 25 MR. KELLY: Your Honor, nonresponsive.

1 THE COURT: Sustained.
 2 **Q.** BY MS. POLK: Given your concern about
 3 2007 and 2008, Mr. Ray's sweat lodge ceremonies,
 4 why did you agree to assist with the ceremony
 5 in 2009?
 6 **A.** **Because my husband hadn't worked since**
 7 **Angel Valley had let him go previously, and we**
 8 **needed the money. And I thought it would be better**
 9 **if we did it, because we had done two before, than**
 10 **having somebody who had never done one before do**
 11 **it. So I thought it would be better if we did it.**
 12 **Q.** Mr. Kelly asked you about the
 13 conversation you heard about somebody being
 14 unconscious in October of 2009 before Mr. Ray
 15 started his final round.
 16 Do you recall that?
 17 **A.** **Yes.**
 18 **Q.** And did that conversation alarm you?
 19 **A.** **Yes.**
 20 **Q.** Did you speak up at that time?
 21 **A.** **No.**
 22 **Q.** And why not?
 23 **A.** **Again, I'm the last person in the chain**
 24 **of command. And honestly, if I had said, James, we**
 25 **got to get these people out --**

1 MR. KELLY: Your Honor, objection to the
 2 speculative portion of this response.
 3 THE COURT: Sustained.
 4 **Q.** BY MS. POLK: Ms. Mercer, what was your
 5 state of mind after you heard the conversation and
 6 Mr. Ray's response about somebody being unconscious
 7 before Mr. Ray started the final round?
 8 **A.** **I was anxious for it to be over.**
 9 **Q.** When you heard the conversation about
 10 somebody being unconscious --
 11 **A.** **Yes.**
 12 **Q.** -- before Mr. Ray started the sweat
 13 lodge, the final round, and the door was open, did
 14 you have an expectation at that time?
 15 MR. KELLY: Objection. Relevance.
 16 THE COURT: Sustained.
 17 **Q.** BY MS. POLK: After learning that --
 18 after hearing that there was conversation about
 19 someone being unconscious before Mr. Ray started
 20 the final round in October of 2009, after that
 21 conversation and before Mr. Ray directed you to
 22 close the door, was anybody brought out?
 23 **A.** **I don't recall.**
 24 **Q.** How much time passed after you heard
 25 Mr. Ray respond concerning the information that

1 someone was unconscious -- how much time passed
 2 before Mr. Ray directed you to close the door?
 3 MR. KELLY: Your Honor, I'm going to object to
 4 the form of the question. I don't believe that's
 5 the testimony.
 6 THE COURT: You may answer that if you can, if
 7 the question is phrased in a manner that's
 8 consistent.
 9 THE WITNESS: I don't know about the time, but
 10 I know he did ask after that if anyone else wanted
 11 to come back in.
 12 **Q.** BY MS. POLK: Do you recall if anyone
 13 went back in?
 14 **A.** **I believe people did go back in.**
 15 **Q.** Do you recall if anybody unconscious was
 16 taken out before the final round after that
 17 conversation?
 18 **A.** **Not after the conversation. I don't**
 19 **remember when people were taken out, if it was**
 20 **before or after that.**
 21 **Q.** After that conversation did Mr. Ray
 22 direct you to close the door?
 23 **A.** **Yes.**
 24 **Q.** After you closed the door, what was your
 25 state of mind?

1 **A.** **Anxious for it to be over. I was alert.**
 2 **I was concerned.**
 3 **Q.** After the sweat lodge ceremony was over
 4 and people were taken out and people were taken
 5 care of, what made you look inside the sweat lodge?
 6 **A.** **I don't know. I had assumed that all the**
 7 **people who were in there had been dragged out. I**
 8 **didn't think, oh. I should look for people. I**
 9 **don't know why I looked in there. I just did.**
 10 **Q.** I just want to ask you a couple questions
 11 about the conversation you heard around the middle
 12 of Mr. Ray's ceremony. And that pertained to the
 13 voices that came from this area.
 14 **A.** **Yes.**
 15 **Q.** You testified that the conversation that
 16 Mr. Ray made some comments about taking care of
 17 yourselves?
 18 **A.** **Yes.**
 19 **Q.** Tell the jury specifically what you
 20 recall Mr. Ray saying.
 21 **A.** **He said, this is your journey. Take care**
 22 **of -- worry about yourself.**
 23 **Because someone was talking about**
 24 **somebody else, and they were leaning up against --**
 25 **and they didn't know if --**

1 MR. KELLY: Your Honor, objection as to the
2 speculation. The question is --

3 THE COURT: Sustained.

4 Q. BY MS. POLK: Let's go through this
5 talking about what you specifically heard. What
6 did you hear about someone leaning?

7 A. **They said someone was leaning up against**
8 **them, and they didn't know if -- they didn't know**
9 **how they were doing. There was a lot of**
10 **conversations like that.**

11 Q. I want to ask you specifically about this
12 conversation. Somebody was leaning, and they
13 didn't know how they were doing?

14 A. Yes.

15 Q. What do you recall specifically hearing
16 him say?

17 A. **Don't worry about him. Worry about**
18 **yourself. I don't know if those are the exact**
19 **words, but that was the -- what I got out of it was**
20 **that they said, don't worry about them. Worry**
21 **about yourself.**

22 Q. Who said, don't worry about them? Worry
23 about yourself?

24 A. James Ray.

25 Q. Was that when the door was open?

1 A. Yes.

2 Q. Did that alarm you?

3 A. Yes.

4 Q. You were asked by Mr. Kelly whether you
5 believed that Mr. Ray's words interfered with
6 people's free will to leave his sweat lodge.

7 Do you recall that?

8 A. Yes.

9 Q. And you stated you believed Mr. Ray's
10 words convinced people to stay inside?

11 A. Yes.

12 Q. Will you explain that to the jury.

13 A. **Well, I believe that they listened to**
14 **him, and they paid a lot of money to him to go**
15 **through his training. And I know they said they**
16 **don't want to disappoint him.**

17 **And I think that they would stay in there**
18 **past the point of being able to get out themselves,**
19 **not because they wanted to, but because they didn't**
20 **want to have to go by James or know that they**
21 **hadn't completed the last --**

22 MR. KELLY: Your Honor, object the speculative
23 portion.

24 THE COURT: Overruled.

25 Q. BY MS. POLK: Did you specifically hear

1 those words, I don't want to disappoint James?

2 MR. KELLY: Your Honor, objection. Hearsay,
3 beyond the scope.

4 THE COURT: Sustained.

5 Q. BY MS. POLK: Just a couple more
6 questions, Ms. Mercer.

7 Mr. Kelly asked you why you spoke to
8 Mr. Ray after your husband, Ted, told you to call
9 9-1-1?

10 A. Yes.

11 Q. Why did you?

12 A. **I was needing a phone to call an**
13 **ambulance, and I thought he would have one or he**
14 **would know where one was.**

15 MR. KELLY: Objection as to the speculation,
16 second portion of the response.

17 THE COURT: Overruled.

18 Q. BY MS. POLK: Did you also look for
19 Megan?

20 A. Yes.

21 Q. And why were you looking for Megan?

22 A. **Because the lady I thought was a nurse**
23 **told me to find Megan because she had a cell phone.**

24 Q. Did you find Megan?

25 A. No.

1 Q. So after the sweat lodge ceremony was
2 over, you found Mr. Ray?

3 MR. KELLY: Your Honor, objection. Asked and
4 answered, leading.

5 THE COURT: Overruled.

6 Q. BY MS. POLK: You looked and could not
7 find Megan?

8 A. Yes.

9 Q. Did you see Megan around later when the
10 emergency first responders arrived, if you recall?

11 A. **I recall hugging her and crying on her.**
12 **That's the only time I remember seeing her.**

13 Q. And then, finally, you said you called
14 9-1-1 after it became apparent no one in charge was
15 calling 9-1-1. Why did you reach that conclusion
16 that nobody in charge was calling 9-1-1?

17 A. **Because the lady I thought was a nurse --**
18 **because the lady I thought was a nurse didn't act**
19 **like a nurse, in my opinion. I went and asked**
20 **James Ray, who is in charge of the event. And then**
21 **I asked Amayra, who is the owner of the property.**
22 **And neither of them were running off to the phone.**
23 **So I did.**

24 Q. You talked about all the times you went
25 into the pump house. I'm going to put up

1 Exhibit 797 again. Did you ever get sick after
 2 going in or out of that pump house?
 3 **A. No.**
 4 **Q.** Did you ever get sick after handling any
 5 of the tarps, the blankets, or the brown cover used
 6 for the sweat lodge or any event?
 7 **A. No.**
 8 **Q.** Do you recall what day of the week the
 9 sweat lodge that was used in 2009 by Mr. Ray --
 10 what day of the week you covered it with blankets
 11 and tarps?
 12 **A. It was the day before. But I don't know**
 13 **what day it was.**
 14 **Q.** If the event was on Thursday?
 15 **A. Wednesday.**
 16 **Q.** You put the coverings on the day before?
 17 **A. Yes.**
 18 **Q.** Do you recall whether or not the kiva or
 19 the frame used for the sweat lodge -- was that in
 20 the same location? Understanding it was a
 21 different frame, but was it in the same location as
 22 subsequent frames throughout 2009?
 23 **A. Yes.**
 24 **Q.** Was it in approximately the same position
 25 over the pit used to hold the rocks?

1 **A. Yes.**
 2 **Q.** As subsequent sweat lodges?
 3 **A. Yes. You can't just move it. The sticks**
 4 **are buried in the ground. It's not moveable.**
 5 **Q.** I'm going to put back up on the overhead
 6 Exhibit 845, where the lady in the green trunks --
 7 green shorts there.
 8 **A. Yes.**
 9 **Q.** You had testified that something was
 10 coming out of the side of her mouth and that she
 11 was unresponsive. Do you recall what it was that
 12 was coming out of the side of her mouth?
 13 **A. It was something I didn't want to touch**
 14 **with my hand. It wasn't colored vomit. It was**
 15 **more mucus, foamish like -- it wasn't a pile of**
 16 **puke. It was foamy mucus kind of stuff.**
 17 **Q.** And that was foamy mucus kind of stuff
 18 for an event that occurred September of 2008?
 19 **A. Yes.**
 20 **Q.** Facilitated by Mr. Ray?
 21 **A. Yes.**
 22 **Q.** Thank you.
 23 Thank you, Your Honor.
 24 THE COURT: Thank you, Counsel.
 25 I guess there is at least one question

1 from the jury.
 2 Any other questions?
 3 Counsel, please come forward.
 4 (Sidebar conference.)
 5 MR. KELLY: No objection.
 6 MS. POLK: No objection.
 7 (End of sidebar conference.)
 8 THE COURT: And, Ms. Mercer, I will ask the
 9 questions. The lawyers may want to follow-up with
 10 questions also.
 11 Was the kiva built around the pit in 2008
 12 or was the pit dug after the kiva was constructed?
 13 THE WITNESS: I don't know. Ted would know.
 14 I don't know.
 15 THE COURT: Follow up?
 16 FURTHER REDIRECT EXAMINATION
 17 BY MS. POLK:
 18 **Q.** Ms. Mercer, do you know whether the pit
 19 was in the same place from 2007 through 2009?
 20 **A. I don't know for sure that it was. But I**
 21 **think Ted would have complained if he had to dig a**
 22 **new hole. And I would have known. So I would**
 23 **assume it's in the same place.**
 24 **Q.** Thank you.
 25 THE COURT: Mr. Kelly, did you want to follow

1 up?
 2 MR. KELLY: No. Thank you.
 3 THE COURT: Another question?
 4 No more questions.
 5 Ms. Mercer, you will be excused from the
 6 trial at this point. You're not going to be
 7 released completely. You would be subject to
 8 probable recall. That mean the rule of exclusion
 9 of witnesses continues to apply throughout the
 10 trial. Just to let you know, you may be contacted.
 11 You may not. But you are -- subject to possible
 12 recall, you will be excused at this time.
 13 Do you have any questions about the rule
 14 of exclusion and the absolute requirement that you
 15 not in any way discuss the case with any other
 16 witness, attempt to communicate with any other
 17 witness about the case or testimony and just avoid
 18 any kind of information about the case whatsoever?
 19 However, you can talk to the lawyers so long as
 20 other witnesses are not present.
 21 Do you understand?
 22 THE WITNESS: But if, like, someone comes up
 23 to me and starts talking about it, I have to go,
 24 don't talk to me?
 25 THE COURT: Correct.

1 Counsel, anything further?
 2 MS. POLK: No, Your Honor.
 3 MR. KELLY: No, Judge.
 4 THE COURT: While Ms. Mercer is exiting, we
 5 will go ahead and take the morning recess. Please
 6 be reassembled in 20 minutes. That will be 10
 7 till.
 8 Remember the admonition. Thank you.
 9 (Recess.)
 10 THE COURT: The record will show the presence
 11 of the defendant, Mr. Ray; the attorneys, and the
 12 jury.
 13 Ms. Polk, Mr. Hughes, you may call the
 14 next witness.
 15 MS. POLK: Michael Hamilton, please.
 16 THE COURT: Sir, please step to the front of
 17 the courtroom where the bailiff is indicating.
 18 Raise your right hand and be sworn by the
 19 clerk.
 20 MICHAEL HAMILTON,
 21 having been first duly sworn upon his oath to tell
 22 the truth, the whole truth, and nothing but the
 23 truth, testified as follows:
 24 THE COURT: Please be seated here to my right.
 25 Sir, would you please begin by stating

1 your full name.
 2 THE WITNESS: Michael Hamilton.
 3 THE COURT: Thank you.
 4 Ms. Polk.
 5 MS. POLK: Thank you, Your Honor.
 6 DIRECT EXAMINATION
 7 BY MS. POLK:
 8 Q. Good morning, Mr. Hamilton.
 9 A. Good morning.
 10 Q. Would you begin by telling the jury where
 11 you reside.
 12 A. I reside at Angel Valley, which is off
 13 89A between Cottonwood and Sedona.
 14 Q. What county is that in?
 15 A. Yavapai County.
 16 Q. How long have you resided there?
 17 A. Since 2002. That would make it nine
 18 years.
 19 Q. Let's back up and talk about your
 20 experience, your work experience, prior to coming
 21 to Angel Valley in 2002. Where did you reside
 22 immediately prior to coming to Angel Valley?
 23 A. In Sedona over by Back O' Beyond by
 24 Cathedral Rock.
 25 Q. For how long?

1 A. We were there from 1996, six years.
 2 Q. Before that where did you reside?
 3 A. I resided in Holland with my girlfriend
 4 then, my wife now.
 5 Q. How long did you and your wife reside in
 6 Holland?
 7 A. One year.
 8 Q. And prior to that where did you reside?
 9 A. In Pennsylvania for a year.
 10 Q. Where were you born and raised?
 11 A. Lancaster, Pennsylvania.
 12 Q. And did you begin working in Pennsylvania
 13 as an adult?
 14 A. I did.
 15 Q. What sort of work did you do?
 16 A. Began in construction, buying and
 17 renovating houses.
 18 Q. How long did you work in construction?
 19 A. Off and on since 1973.
 20 Q. Do you still do construction?
 21 A. Not right today. No.
 22 Q. When is the last time that you would say
 23 you worked in the construction industry?
 24 A. 2007.
 25 Q. Did you begin working in construction in

1 Pennsylvania?
 2 A. I did.
 3 Q. Did you work for somebody else?
 4 A. No. I had my own company.
 5 Q. How long did you have your own company
 6 for?
 7 A. From 1974 to -- approximately 10 years.
 8 Q. What was the name of your company?
 9 A. Century Log Homes.
 10 Q. Century Log Homes?
 11 A. Yes.
 12 Q. How did you gain experience in the
 13 construction industry prior to owning your own
 14 company?
 15 A. I bought my first house in 1971 and
 16 renovated it, remodeled it. And that was my first
 17 foray into construction.
 18 Q. What did Century -- you said it was
 19 Century Logging?
 20 A. Log Homes.
 21 Q. What sort of business was that?
 22 A. A log home business.
 23 Q. Meaning what?
 24 A. I had a franchise where I sold log homes
 25 in southeast Pennsylvania, where we had different

1 people that were building the log homes, at the
2 time would come, would look at our product and
3 choose either our company or another company with
4 which to build their home.

5 Q. Did you actually do the building?

6 A. We did both building and sales of
7 packages only. We did both.

8 Q. How big was your company?

9 A. The most we had at one time was about 18
10 people.

11 Q. What was your role in that company?

12 A. The president and the salesman of the
13 products.

14 Q. Approximately how many homes, if you
15 know, did Century Log Homes sell?

16 A. From the beginning -- it would be
17 approximately --

18 Century Log Homes or to today? I'm not
19 sure of the question.

20 Q. Let's talk about Century Log Homes first.

21 A. Probably about 200 log homes.

22 Q. And how many did you build?

23 A. Probably about 50 of them.

24 Q. And then you said -- you mentioned today.

25 Do you continue to sell log homes?

1 A. Yes.

2 Q. Through that same company?

3 A. No. We then started a new company with a
4 new supplier called "Holistic Log Homes."

5 Q. When did you begin that company?

6 A. It would have been around 2002. I'm
7 sorry. 1999.

8 Q. And you run that business today?

9 A. No.

10 Q. When did you stop running that business?

11 A. 2007.

12 Q. I believe I heard you testify that you
13 owned Century Log Homes from 1974 for about 10
14 years?

15 A. Yes.

16 Q. What did you do from 1984 up until 1999?

17 A. I was in industrial developing in
18 California.

19 Q. What is that?

20 A. Building industrial buildings with my
21 cousin in the San Fernando Valley.

22 Q. As an actual builder?

23 A. Yes. Well, as a superintendent.

24 Q. How many years total, Mr. Hamilton, would
25 you say you've been in the construction industry?

1 A. 40 years.

2 Q. Was there a difference in the type of log
3 homes that you built for Century Log Homes than
4 Holistic Log Homes?

5 A. Not in the -- the logs were, basically,
6 the same material, just different manufacture and a
7 different actual shape of the actual log.

8 Q. Was there a particular type of log that
9 Century Log Homes used?

10 A. Yes. It was called a "D log."

11 Q. What is that?

12 A. It's a log that has a rounded one side,
13 flat on the other, a flare tongue on the top, and a
14 groove on the bottom.

15 Q. Why did you use the D logs?

16 A. It was a more conventional, more
17 beautiful home when we were in it. We had a choice
18 when we first put in the log homes of getting a
19 true rounded log, the authentic kind, or one that
20 was actually milled where they took an actual log,
21 ran it through a planer. And it just -- when it
22 was done, it felt more me. It felt better.

23 Q. Did you have a certain philosophy with
24 regard to the type of product used when you ran
25 Century Log Homes?

1 A. Yes. It was always based upon as
2 holistic of a product -- even though I didn't use
3 those words back then, it was always as natural of
4 a product.

5 There were companies out at that time
6 that had, as I said, the round log, which was an
7 authentic log. But when you built them, there was
8 daylight and air going through them. So it was how
9 do we make a home where people can be in it and
10 feel nurtured, feel supported, feel comfortable.

11 Q. Did that philosophy carry on to Holistic
12 Log Homes?

13 A. It did.

14 Q. Can you tell the jury what the name of
15 your wife is.

16 A. Amayra Hamilton.

17 Q. When did you and your wife meet?

18 A. June 18th of 1995.

19 Q. When did you get married?

20 A. July 26th of 1999.

21 Q. From the time that you and Amayra got
22 married, where have you lived?

23 A. Lived with Amayra in Holland for a year
24 and then came back to America in 1996. And then
25 she came over in 1997, and we lived at Back O'

1 Beyond from 1997 through 2002, when we moved to
2 Angel Valley.

3 Q. What is Back O' Beyond?

4 A. It's a subdivision over between Sedona
5 and the village of Oak Creek. It's off to the
6 right. There's a road called "Back O' Beyond
7 Road." The old subdivision near Cathedral Rock.

8 Q. Did you operate a business when you were
9 living at Back O' Beyond?

10 A. Yes, we did.

11 Q. What business was that?

12 A. It was called "Michael's Vision," a
13 healing and retreat center.

14 Q. How long did you run that retreat center?

15 A. From 1997 through 2002.

16 Q. What brought you to Angel Valley?

17 A. We had -- when we moved to Back O'
18 Beyond, we had a small cabin. It was about a
19 1,200-foot cabin. And what we wanted to do is have
20 more people stay with us. The cabin wasn't quite
21 big enough. We wound up in 1999 renovating the
22 cabin, converting it into a 4,400 square foot
23 healing center.

24 And when we were done with that, I had
25 this itch. I thought, let me go out and see if I

1 can find any industrial land.

2 And I went out looking for industrial
3 land. And what I wound up finding was Angel
4 Valley. When I walked down, my heart -- it was
5 hard to describe. It was just, wow. It was an
6 imagination of could this be possible that we could
7 be there.

8 Q. At the time that you found Angel Valley,
9 was it up for sale?

10 A. It was, but we didn't know it at the
11 time. There were no signs out. We were just
12 guided down the road. And when we drove down the
13 road and saw the whole valley, it was just breath
14 taking.

15 Q. How did you come to be the owners of
16 Angel Valley?

17 A. Signed a purchase agreement and bought
18 it.

19 Q. How did you find out that it was for
20 sale?

21 A. We had a real estate book where it had
22 different properties for sale. And I remember I
23 was in my office one night. And I said, hey,
24 Amayra. What do you think about looking at this
25 70-acre piece of property?

1 We had just completed our Back O' Beyond
2 house. She said, sure. Why not. We took a drive
3 out the next day. And it turned out to be the same
4 property that we saw a couple days earlier that we
5 drove down the road on but didn't know it.

6 At that moment it was just a nice little
7 stone home. I said, gosh. Just to live in the
8 stone home would be beautiful. And it turned out
9 the whole property was for sale. It was on the
10 market.

11 Q. What year was it that you purchased it?

12 A. 2002.

13 Q. And you just said how many acres?

14 A. 70.

15 Q. What happened to the healing center,
16 Michael's Healing Center?

17 A. We actually -- when we moved to -- we
18 physically moved to Angel Valley in October of
19 2002. And the property was still on the market
20 over at Back O' Beyond. So we closed that down and
21 came to Angel Valley thinking -- at that time it
22 was called "Deer Pass Ranch."

23 What I was going to do was name it
24 "Michael's Vision." And one night in a dream,
25 Archangel Michael came through and said, no. Call

1 it "Angel Valley." There's more angels here than
2 just me.

3 Q. Where were you living when you had the
4 dream about what led to the name of Angel Valley?

5 A. At Back O' Beyond.

6 Q. Did that property have a name before you
7 named it Angel Valley?

8 A. Deer Pass Ranch.

9 Q. First, I'm going to put up on the
10 overhead from Exhibit 736.

11 You talked about the property being off
12 Highway 89A?

13 A. 89A.

14 Q. This little map is part of the Spiritual
15 Warrior guide, part of Mr. Ray's package for his
16 participants.

17 Do you recognize this map?

18 A. I do.

19 Q. Do you know who put together this map?

20 A. My wife, Amayra.

21 Q. Is this map to scale?

22 A. No.

23 Q. Would you use this map, though, just to
24 orient the jury where in Yavapai County Angel
25 Valley is? And, Mr. Hamilton, you know you can

1 draw on the monitor with your finger. Use your
 2 finger and press it and get a mark for you.
 3 **A. Okay. If right here -- right there is**
 4 **Sedona, and over here is Cottonwood. And we're**
 5 **right in the middle of the distance. It's 9.9**
 6 **miles from the center of Sedona and 9 miles from**
 7 **the Cottonwood junction to where we are. We're**
 8 **right in the middle between Cottonwood and Sedona.**
 9 **Q.** The turn off on the road is?
 10 **A. Yes.**
 11 **Q.** Do you also see the junction with
 12 Interstate 17 on this little map?
 13 **A. I do.**
 14 **Q.** Show the jury where that is.
 15 **A. Down there.**
 16 **Q.** The drawing that depicts Angel Valley
 17 itself is taking up a lot of space on this map;
 18 right?
 19 **A. It is.**
 20 **Q.** And in real life, does it take up that
 21 much?
 22 **A. No. No. The map was designed for people**
 23 **that want to find out where we're at. They go to**
 24 **the website. Many times people want to drive**
 25 **through Sedona before they come to us. They have**

1 **an option of going through Cottonwood or Sedona to**
 2 **wind up with us.**
 3 **Q.** This road that leads down to Angel
 4 Valley -- describe the road for us.
 5 **A. It's a two-mile bumpy road maintained by**
 6 **Angel Valley.**
 7 **Q.** Do you maintain the whole road up to the
 8 highway?
 9 **A. Yes.**
 10 **Q.** Approximately how long does it take you
 11 to drive that road?
 12 **A. If I'm in a hurry, 5 minutes. If I'm**
 13 **not, 10.**
 14 **Q.** 10 minutes to drive the entire two miles?
 15 **A. If I take my time.**
 16 **Q.** Is there a gate at some point to enter
 17 Angel Valley?
 18 **A. There is. And the gate is the second**
 19 **dot, the one to the left. That's where the gate**
 20 **is.**
 21 **Q.** This would be the creek; is that correct?
 22 **A. Correct.**
 23 **Q.** And show the jury again where the gate
 24 is. It looks like it's marked on the --
 25 **A. It is. There's the gate.**

1 **Q.** Does that show the gate?
 2 **A. Yes. Right there.**
 3 **Q.** When you and your wife acquired this
 4 property, did you have a plan for the property?
 5 **A. In general, it was to create a healing**
 6 **and retreat center.**
 7 **Q.** I'm going to show you what's been marked
 8 as exhibits 807 and 806. Do you recognize both of
 9 these pamphlet's?
 10 **A. I do.**
 11 **Q.** What are they?
 12 **A. They are brochures telling what Angel**
 13 **Valley is about.**
 14 **MS. POLK:** Your Honor, I move for the
 15 admission of 806 and 807.
 16 **THE COURT:** Ms. Do?
 17 **MS. DO:** No objection.
 18 **THE COURT:** 806 and 807 are admitted.
 19 (Exhibits 806 and 807 admitted.)
 20 **Q.** BY MS. POLK: Who created these
 21 pamphlets?
 22 **A. It was a combination between my wife and**
 23 **I and some of our staff there at the time.**
 24 **Q.** Do you know what year you created 806,
 25 which is this one?

1 **A. 2010.**
 2 **Q.** Just recently. And then what about 807?
 3 **A. That would have been probably around**
 4 **2007. I'm guessing, but right in that area.**
 5 **Q.** I'm going to put up on the overhead
 6 Exhibit 807. I'd just ask you, first of all, to
 7 tell the jury -- I'm pointing to a picture. What
 8 is that a picture of?
 9 **A. It's a picture of a bridge.**
 10 **Q.** Is that part of Angel Valley?
 11 **A. It is.**
 12 **Q.** Tell the jury where that is.
 13 **A. That is right after you cross over the**
 14 **gate. You cross through the gate area. You bear**
 15 **to the right, and then it's what takes you over Oak**
 16 **Creek to our property.**
 17 **Q.** And then up on this side right here --
 18 zoom in -- do you see this photograph in the upper
 19 left that says "Vortex Experience?"
 20 **A. I do.**
 21 **Q.** Is that something that is at Angel
 22 Valley?
 23 **A. It is.**
 24 **Q.** And what is that?
 25 **A. You have different vortex spots there.**

1 **And it's where people go to connect with the**
 2 **energy, as they do throughout Sedona. We have**
 3 **certain locations at Angel Valley.**

4 **Q.** This next picture says "Labyrinth." Is
 5 that at Angel Valley?

6 **A.** It is.

7 **Q.** What is that?

8 **A.** That is a walking meditation tool for
 9 people to walk and to recenter themselves and to
 10 allow the energy of the earth to talk to them.

11 **Q.** Who put in that labyrinth?

12 **A.** We did.

13 **Q.** You and your wife?

14 **A.** Me, my wife. And that one was laid by --
 15 we had, I think, 40 people that came that day,
 16 which was in December of 2002. And we all laid the
 17 stones together.

18 **Q.** The next picture says "Angel Wheel." Can
 19 you tell the jury what that is.

20 **A.** In the Native American tradition, there
 21 is the medicine wheel. And for the first years we
 22 were there, we had a medicine wheel. And then I
 23 want to say it was in 2007 we decided to go with an
 24 angel wheel that would have the archangels in the
 25 wheel, which are still taken from the principles of

1 the four directions. It was more in keeping with
 2 what we were about than the medicine wheel. That's
 3 when we built it.

4 **Q.** Is this angel wheel there?

5 **A.** Yes, it is.

6 **Q.** And you have -- you mentioned in keeping
 7 with the four directions. Will you explain that to
 8 the jury.

9 **A.** Traditionally north, south, east, and
 10 west are the traditions of the Native Americans
 11 where they look and they honor the north, the
 12 south, the east, and the west. We wanted to do the
 13 same thing but not have as much of the -- the
 14 Native American meaning as the angelic meaning.

15 **Q.** And for you, Mr. Hamilton, angels have a
 16 special meaning?

17 **A.** They do.

18 **Q.** And I don't want to delve into your
 19 religious beliefs but just ask you how long has
 20 that been important to you?

21 **A.** Consciously, since 1995.

22 **Q.** The next picture at the bottom has a
 23 teepee village. Is that at Angel Valley?

24 **A.** It used to be.

25 **Q.** For how long was that there?

1 **A.** For about two years.

2 **Q.** Do you know when it was last there?

3 **A.** 2006, I believe.

4 **Q.** When you and your wife bought Angel
 5 Valley, what was there?

6 **A.** It was a ranch that a man from Phoenix
 7 owned -- a dentist. And he used it as a weekend
 8 getaway. There were rental houses there, and that
 9 was about it.

10 **Q.** Have the original buildings -- are they
 11 still at Angel Valley?

12 **A.** All but four of them.

13 **Q.** You've taken down four?

14 **A.** We did.

15 **Q.** On the backside of this exhibit up in the
 16 upper left is a picture. What is that?

17 **A.** That's a picture of Oak Creek flowing
 18 through our property.

19 **Q.** And then below it?

20 **A.** That's a stair step going up to what we
 21 call "Michael's Mountain," which is on the other
 22 side of the -- where the people stay. We have part
 23 of the acreage is on the other side where we say
 24 Archangel Michael has -- his most powerful spot is
 25 up there.

1 **Q.** And then the lower left is a photograph
 2 of what?

3 **A.** That's actually a photograph of my family
 4 that came out in, I want to say 2004, as a family
 5 gathering, that we were doing a vortex tour at that
 6 time with the family that showed up.

7 **Q.** In the center of this is a photograph.
 8 I'm going to move it to the top because of the
 9 glare.

10 Tell the jury what that is?

11 **A.** That is what we call the "Crystal Hall."
 12 It's where all the meetings are done when
 13 facilitators come. It's where we used to have
 14 Sunday morning gathering, like a church service.
 15 But it's a meeting space where you can do yoga,
 16 meditation, or just an open lecture center.

17 **Q.** Now, is that a room that Mr. Ray used
 18 over the years when he rented your facility?

19 **A.** Yes.

20 **Q.** Did you have that room built or that
 21 building built?

22 **A.** We renovated. It was an original barn.
 23 And when we got there, the barn had -- one third of
 24 it was concrete and the other two thirds was dirt.
 25 And we went in and put new flooring in, new walls,

1 **basically, renovated the whole building.**
 2 **Q.** When you do that sort of construction, do
 3 you do it?
 4 **A.** With my own hands, no.
 5 **Q.** Do you serve as the general contractor?
 6 **A.** Yes.
 7 **Q.** And then the photograph at the top right.
 8 Will you tell the jury what that is.
 9 **A.** That is the home that originally was
 10 owned by the owner that we bought from. That was
 11 his weekend getaway house. We converted it into a
 12 lodging where people can stay.
 13 **Q.** The next picture. Tell the jury what
 14 that is.
 15 **A.** That is one of the rooms that we have in
 16 what we call the "Yellow House" or the "dining
 17 facility."
 18 **Q.** Do you know who has stayed in that room
 19 when Mr. Ray's events have been held at Angel
 20 Valley?
 21 **A.** I do not remember.
 22 **Q.** Then we see a picture of what appears to
 23 be a teepee?
 24 **A.** Yes.
 25 **Q.** Is that at Angel Valley as well?

1 **A.** No. No longer.
 2 **Q.** Was it at some point?
 3 **A.** It was.
 4 **Q.** When was that taken down?
 5 **A.** I want to say around 2006 when the county
 6 said we no longer can have teepees on the property
 7 for lodging.
 8 **Q.** When Mr. Ray held his events at Angel
 9 Valley, did you erect teepees?
 10 **A.** We would have for the period he was
 11 there. We treated it as a tent. So yes. We would
 12 have one or -- I know for sure one teepee. When he
 13 first came, when we still had teepees, some of his
 14 people stayed there.
 15 **Q.** What year was it that you stopped having
 16 the permanent teepees, if you remember?
 17 **A.** I don't remember for sure.
 18 **Q.** The bottom picture is what?
 19 **A.** It shows what our teepees were like when
 20 you were inside. It had the carpeting. It had
 21 beds in it, futon beds, lighting, and what we call
 22 an "ozone layer" that goes around -- what you see
 23 there -- behind the bed. That is what keeps the
 24 heat into the space.
 25 **Q.** Show the jury what you're talking about

1 when you talked about an ozone layer.
 2 **A.** Ozone is right around here. It's a
 3 covering that goes against the poles on the inside,
 4 which allows air to -- from the outside air can go
 5 down the teepee, up the back of this, and then out
 6 the peak. That's how you get air flow into a
 7 teepee.
 8 **Q.** In 2009, when Mr. Ray held his event at
 9 Angel Valley, did you use some tents to put
 10 participants in?
 11 **A.** I don't recall.
 12 **Q.** Would your wife know the answer to that?
 13 **A.** Yes.
 14 **Q.** Mr. Hamilton, did you and your wife form
 15 a business in order to use your facilities as a
 16 retreat center?
 17 **A.** We did.
 18 **Q.** When did you form a business?
 19 **A.** The official reformation was in 2004.
 20 **Q.** Tell the jury the name of the business
 21 that you formed.
 22 **A.** We formed Angel Valley Ministry. And we
 23 received our IRS official notification on
 24 April the 13th of 2004.
 25 **Q.** Is that Angel Valley Ministries a

1 business?
 2 **A.** The 501c3 church.
 3 **Q.** It's a church?
 4 **A.** Yes.
 5 **Q.** Did you also form a business?
 6 **A.** We did.
 7 **Q.** And tell the jury what business you
 8 formed.
 9 **A.** We formed Angel Valley Spiritual Retreat
 10 Center, an LLC of Angel Valley Ministries.
 11 **Q.** When did you form the business, the LLC,
 12 that operates as your retreat center?
 13 **A.** The actual LLC was formed in September of
 14 2004. But we started using it in August of 2008 as
 15 an official business per se. Before that it was
 16 strictly a church.
 17 **Q.** Is the Angel Valley Retreat Center, the
 18 business -- is that a for-profit business?
 19 **A.** It's a for-profit within a nonprofit
 20 structure of the ministry.
 21 **Q.** Did you use attorneys and accountants to
 22 formulate your business entities?
 23 **A.** We did.
 24 **Q.** And what does Angel Valley Ministries
 25 do -- the church?

1 **A. Angel Valley Ministries is the reason**
 2 **we're there. It teaches the philosophy; works with**
 3 **people on what's the bigger meaning in life, why**
 4 **are we here; and talks about the connection with**
 5 **spirit, with God, with one's self. And it's the**
 6 **backbone, if you will, of what we're all about.**

7 **Q. Why did you form a for-profit business,**
 8 **the retreat center?**

9 **A. In August of 2008, it just felt -- all I**
 10 **can say is it felt right to do. And then we had an**
 11 **IRS audit in November of 2008. And as we were**
 12 **finishing the audit, she said, by the way, I think**
 13 **you should have it be a separate -- that the church**
 14 **is one entity and the retreat center is another.**

15 **And I said, funny you should say that**
 16 **because we just started that in August. So I**
 17 **didn't know why, but we did it. And it now -- so**
 18 **we were in compliance with what she wanted us to do**
 19 **at the completion of the audit.**

20 **Q. Do you have a philosophy with respect to**
 21 **how you treat the property known as Angel Valley?**

22 **A. We do.**

23 **Q. Tell the jury what your philosophy is.**

24 **A. Our philosophy is to keep everything as**
 25 **holistic, as natural, as authentic, as possible.**

1 **To never use, to the best of our ability,**
 2 **herbicides, pesticides, anything that would have a**
 3 **negative impact on people. Even in our rooms we**
 4 **have no smoking, no perfume.**

5 **Different times we've had people in the**
 6 **past that have very heavy perfume. We ask them**
 7 **that while they're there not to use the perfume.**
 8 **Because people are sensitive when they're in a room**
 9 **where somebody has had strong perfumes or any type**
 10 **of incense. Candles even being burned doesn't**
 11 **honor each person's own sensitivity when they come.**

12 **Q. Do you consider yourself to be stewards**
 13 **of the land at Angel Valley?**

14 **A. We do.**

15 **Q. Explain that to the jury.**

16 **A. When we first bought it, for me there had**
 17 **a lot to do with the ownership. Yes, we bought it.**
 18 **But as we were there and as we really connected**
 19 **with -- can we really own anything was a question**
 20 **my wife and I asked. No, you can't. On paper**
 21 **maybe. But, in theory, we're only here for a brief**
 22 **moment in time.**

23 **How do we honor what we're given as**
 24 **stewards to honor the best way we can. So we don't**
 25 **consider it ownership. We consider it stewardship,**

1 **to do the best we can.**

2 **Q. Do you have a policy with respect to use**
 3 **of chemicals on your property, on your land?**

4 **A. We do.**

5 **Q. Explain that policy to the jury.**

6 **A. The -- when we first got to Angel Valley,**
 7 **we looked at how do we take care of such a large**
 8 **piece of land with animals there, with javelina,**
 9 **with deer. We came up with the best way to do it**
 10 **was as natural as possible.**

11 **There were different times we would find,**
 12 **let's call it ants. And we dealt with that in the**
 13 **most natural way we could. There was a formula**
 14 **that we found that's natural products. The lumber**
 15 **that we would use, we would make sure that we**
 16 **always had paints or stains that had zero**
 17 **outgassing.**

18 **Knowing that when people come, we're**
 19 **asking people to open your heart, feel, connect.**
 20 **And that can't happen when you're senses are**
 21 **blocked because of sounds or because of smells,**
 22 **because of paints.**

23 **So we had a very strict policy of -- even**
 24 **though we knew people would smoke, we created a**
 25 **piece of -- at the far end of each of the**

1 **property -- if you want to smoke, go to that**
 2 **designated spot, but please don't do it anywhere**
 3 **other people are gathering. It was to create as**
 4 **fragrance-free environment as what we could.**

5 **Q. Did you let your policy with regard to**
 6 **the use of chemicals on your property -- did you**
 7 **make that known to all of your employees?**

8 **A. Absolutely.**

9 **Q. How did you make it known to your**
 10 **employees?**

11 **A. When anyone came and said, hey, we have a**
 12 **problem, we said, okay. What is the most natural**
 13 **product we can use to take care of it?**

14 **Q. Have you been able to be 100 percent**
 15 **chemical-free at your property?**

16 **A. I would say no.**

17 **Q. Have you ever used -- well, let's talk**
 18 **specifically. What sort of problem have you had**
 19 **that you had to use a chemical to address?**

20 **A. Ants were the major problem. And the**
 21 **only time I know that we actually did use one of**
 22 **the -- AMDRO, I think is a correct name, which is a**
 23 **chemical or powder.**

24 **Q. How do you spell that?**

25 **A. A-M-D-R-O, I believe.**

1 Q. Okay.

2 A. We had ants that were coming into one of
3 the cabins. An individual, a guest, said, you have
4 ants in the cabin. At that moment we -- that was
5 in 2010. We actually used an AMDRO right at the
6 base of the footing of the cabin to actually take
7 care of the queen and then the whole hive.

8 Q. Did you have a problem with ants prior
9 to 2010?

10 A. Yes, we did.

11 Q. How did you address them then?

12 A. Normally we did nothing. When we did, it
13 was a product called "Diatomaceous Earth." It is a
14 natural product that you put on the mound. It also
15 takes care of them. And there was another product
16 that I don't have. It was in the book that I gave
17 of the exact mixture of the products.

18 Q. Do you recall what was in that other
19 product?

20 A. Right now no.

21 Q. Did it have vinegar in it?

22 A. Yes.

23 Q. Do you recall what else other than
24 vinegar?

25 A. There was an orange oil. And I don't

1 remember the other one.

2 Q. Do you know, Mr. Hamilton, what is in the
3 Diatomaceous Earth?

4 A. It's a fossilized product that happened
5 with rainwater, water runoff, that they then
6 crystallized, actually not crystallized --

7 Q. Powderized?

8 A. Powderized. And put it in a granule.

9 Q. And do you know how it works to take care
10 of the ant problem?

11 A. Not exactly. I just know that it's
12 effective.

13 Q. Do you know that it's a product that
14 actually lays on top of the ants, covers the ants
15 with the product?

16 MS. DO: Objection to the leading questions.

17 THE COURT: Sustained.

18 THE WITNESS: No, I do not.

19 Q. BY MS. POLK: Did you use AMDRO for the
20 ant problem prior to 2010?

21 A. No.

22 Q. Prior to 2010 you just used these natural
23 products you described for the jury for the ants?

24 A. Yes.

25 Q. Did you use any products to take care of

1 weeds?

2 A. We did.

3 Q. Do you recall what products you've used
4 over the years to take care of weeds?

5 A. Salt and regular water. It's a salt we
6 got over at Olsen's Grain. You mix that with
7 water. That would do it.

8 Q. How do you do that? How do you use salt
9 and water to take away weeds?

10 A. If you take bags of -- 50 pound bags or
11 25 pound bags of salt and you mix that in hot
12 water, it, basically, dissolves. And then you
13 spray it on -- the ideal way is to cut the top of
14 the weed off and spray it in the roots. It goes
15 down into the whole root system.

16 But the most things, I would say 90
17 percent of all the weeds we've taken care of in
18 Angel Valley have been the old-fashion way of
19 having people pull them.

20 Q. Did you ever at any time have a
21 commercial company come in and spray your property?

22 A. Never.

23 Q. For any purpose?

24 A. No.

25 Q. What sort of soaps and laundry detergent

1 do you use at Angel Valley?

2 A. Amayra would be the best one for that.
3 She's the one that buys those.

4 Q. And have you ever had a problem with mice
5 or rats?

6 A. We did.

7 Q. Which -- what's the difference between
8 them?

9 A. We do.

10 Q. Pardon me?

11 A. I'm sorry.

12 Q. Let's talk about mice first. Have you
13 had problems with mice?

14 A. Yes.

15 Q. And have you had problems with rats?

16 A. Yes.

17 Q. Beginning when?

18 A. When we first got there.

19 Q. What have you done to address that
20 problem?

21 A. Basically, for the mice, it was mouse
22 traps. And after mouse traps, we had enough people
23 on the land that said, get a human trap -- or a
24 humane trap. So we tried that. They just -- there
25 were times they'd go in them and times they'd just

1 **run around them. We went back to the traps again.**
 2 **Q.** And how about rats? When did you have
 3 problems with rats?
 4 **A.** **First noticed them in -- I want to say**
 5 **2006.**
 6 **Q.** When did you first notice them?
 7 **A.** **When my car would not start.**
 8 **Q.** Will you explain that to the jury.
 9 **A.** **Something I didn't know. But rats --**
 10 **when you just come back in on a cold evening, you**
 11 **drive home, turn your car off, and the rats are**
 12 **looking for some place warm to go.**
 13 **After a period of time they started**
 14 **chewing on the cables. And we found out where they**
 15 **had a real nest in my truck. And so we had a van**
 16 **that had damage. We had -- my wife's car had**
 17 **damage, and my other truck also had damage. We had**
 18 **almost \$4,000 worth of damage to our vehicles from**
 19 **rats.**
 20 **Q.** What did you do to address the problem?
 21 **A.** **I went to Ace Hardware, asked what's the**
 22 **best product that you have that's the most humane**
 23 **for the rats.**
 24 **Q.** Do you recall what you used?
 25 **A.** **One Bite was one of the products, which**

1 **was more of a yellow. And there was another one, a**
 2 **green. There was like a -- there were three main**
 3 **things that they gave us that I bought. One were**
 4 **little green pellets. One was a yellow cake --**
 5 **looked like a little cake. And a green cake. And**
 6 **we put --**
 7 **Q.** Biscuit?
 8 **A.** **Like a biscuit.**
 9 **Q.** Do you recall which of the those products
 10 you used to take care of the rats in your vehicles?
 11 **A.** **All three.**
 12 **Q.** And how -- was it successful?
 13 **A.** **It was after time.**
 14 **Q.** Where did you put those products to
 15 address the rats?
 16 **A.** **I opened the hood and put it right on the**
 17 **air filter.**
 18 **Q.** Did you have to use a vessel or a
 19 container for the product?
 20 **A.** **We used a plate.**
 21 **Q.** For all three products?
 22 **A.** **Yes.**
 23 **Q.** And did you take pictures of it?
 24 **A.** **We did.**
 25 **Q.** Back in 2006?

1 **A.** **We did.**
 2 **Q.** Why did you take pictures?
 3 **A.** **Curiosity. Seeing what happened. It's**
 4 **like the plate would be there and then the next**
 5 **morning there would be nothing there. And then the**
 6 **next day I said, Amayra, take some pictures. She**
 7 **loves taking photographs. So we took pictures of**
 8 **it.**
 9 **We saw one where they actually brought**
 10 **some of their sticks and everything in and put them**
 11 **on top of the plate. So it was -- let's just say**
 12 **it was frustrating. I wanted to capture it in**
 13 **photographs.**
 14 **Q.** Do you still have a problem with rats?
 15 **A.** **No, we do not.**
 16 **Q.** And when did you last have a problem with
 17 rats?
 18 **A.** **I want to say 2007. When we got cats.**
 19 **Q.** How many cats did you get?
 20 **A.** **At one point -- normally we have around**
 21 **four cats on the property. And that was -- my wife**
 22 **came home with two, which I didn't know about. She**
 23 **went to -- they were having some giveaway over in**
 24 **Sedona. She came home with two cats. I got two**
 25 **cats for the rat problem.**

1 **And about a week later a contractor of**
 2 **ours said, hey. We have some extra cats. And we**
 3 **wound up with four of them. We have not had any**
 4 **problem in the outside or getting in the cars as**
 5 **far as rats anymore.**
 6 **Q.** Did you ever have problems in the pump
 7 house with rats?
 8 **A.** **We would. Yes.**
 9 **Q.** Do you recall what years you had problems
 10 at the pump house?
 11 **A.** **Probably 2006, 2007.**
 12 **Q.** When is the last time you had problems
 13 with rats in the pump house?
 14 **A.** **Problems -- can I explain?**
 15 **Q.** Yes.
 16 **A.** **For me having rat droppings is a problem.**
 17 **But it wasn't that they were living in there. So I**
 18 **would say that was probably 2008, maybe the**
 19 **beginning of 2009.**
 20 **Q.** Did you ever put -- you personally ever
 21 put any product to take care of the rats in the
 22 pump house?
 23 **A.** **I did not.**
 24 **Q.** Did somebody from Angel Valley?
 25 **A.** **Somebody did.**

1 Q. Do you know who?
 2 A. **No, I do not.**
 3 Q. I'm going to show you Exhibit 797, 798,
 4 799, and 800. Have you seen these photographs
 5 before?
 6 A. **I have.**
 7 Q. Who took these photographs?
 8 A. **My wife, Amayra.**
 9 Q. Were you with her when she took the
 10 photographs?
 11 A. **No, I was not.**
 12 Q. When did you see the photographs?
 13 A. **When she developed them or went on her**
 14 **computer and printed them up.**
 15 Q. Do you know when she took them?
 16 A. **After we had a meeting with Ross Diskin.**
 17 Q. Was that recently, within the last month?
 18 A. **Within the last two months, whenever that**
 19 **date was.**
 20 Q. After that meeting with the detective,
 21 your wife took some photographs of the pump house
 22 and showed them to you?
 23 A. **Correct.**
 24 Q. Did you ever see the pump house with
 25 what's depicted in Exhibit 798?

1 A. **I did.**
 2 Q. When?
 3 A. **Sometime prior to -- best I can**
 4 **recollect, it would have been 2009, 2008. From**
 5 **time to time a plate like that would be there.**
 6 Q. And Exhibit 800. What is that?
 7 A. **That is one of the products of the One**
 8 **Bite that is on this picture there.**
 9 Q. That's shown in Exhibit 799?
 10 A. **Yes.**
 11 MS. POLK: Your Honor, I move for the
 12 admission of Exhibit 800.
 13 MS. DO: Your Honor, I haven't seen them.
 14 THE COURT: Ms. Do?
 15 MS. DO: No objection, Your Honor.
 16 THE COURT: 800 is admitted.
 17 (Exhibit 800 admitted.)
 18 Q. BY MS. POLK: First of all, Mr. Hamilton,
 19 I'm going to put up on the overhead Exhibit 797.
 20 Can you just tell the jury what that is.
 21 A. **That's a picture of the pump house as it**
 22 **was within the last two months.**
 23 Q. Prior to October of 2009, did the pump
 24 house look different?
 25 A. **It did.**

1 Q. And how so?
 2 A. **If you see the table between the two**
 3 **tanks, that would be where all the blankets and all**
 4 **the coverings that were, let's say, subject to**
 5 **being wet would be stored.**
 6 Q. Was the pump house full of -- would it be
 7 safe to say the pump house was full of things prior
 8 to --
 9 A. **Yes.**
 10 Q. -- November of 2009?
 11 I'm going to put up on the overhead
 12 Exhibit 798.
 13 THE COURT: Any objection to that one? That
 14 has not been admitted. 797 previously was
 15 admitted, as was 799. But 798 and 800. Any
 16 objections, Ms. Do?
 17 MS. DO: No. No objections, Your Honor.
 18 THE COURT: Both of those are admitted.
 19 (Exhibit 798 admitted.)
 20 Q. BY MS. POLK: I'm going to put up on the
 21 overhead 798. This is a photograph taken within
 22 the last month or so?
 23 A. **Yes.**
 24 Q. Do you know how the plate got there for
 25 this photograph?

1 A. **Amayra would have put it there to save**
 2 **what it would have looked like when we did have a**
 3 **plate there.**
 4 Q. Tell the jury when it was that you
 5 believe you had a plate there.
 6 A. **The main rat problem we had for me ended**
 7 **in that 2006, 2007, when cats were around. And so**
 8 **I know prior to that for sure there was a plate**
 9 **there. After that because I wasn't in the pump**
 10 **house myself very often -- I remember it there, but**
 11 **I don't remember when. So I don't have an exact**
 12 **date.**
 13 Q. What would be some of the reasons you
 14 might have gone into the pump house?
 15 A. **We also had ropes, as you can see some of**
 16 **the ropes up at the top. We stored some of the**
 17 **ropes in there. If I needed ropes or I needed**
 18 **teepees, I may go in there. Those were also stored**
 19 **in there. That would be about the only reason.**
 20 Q. Do you have employees who would have gone
 21 in the pump house more frequently than you?
 22 A. **Yes.**
 23 Q. Who would they be?
 24 A. **Would have been one of our -- we have a**
 25 **number of different landscapers. Housekeeper's**

1 would have gone in there. Whenever a sweat lodge
2 was being created, the people that were actually
3 building the lodge would have gone in there to get
4 their coverings to put on.

5 Q. Do you recall, Mr. Hamilton, if you ever
6 put any of the granules down on the floor in the
7 pump house?

8 A. Never.

9 Q. You personally did not?

10 A. Never. No.

11 Q. Do you know if any of your employees
12 might have?

13 A. I would say no. The plate -- in a plate
14 or not in a plate?

15 Q. Not in a plate.

16 A. No. Never.

17 Q. Is it possible one of your employees
18 might have done it and you don't know?

19 MS. DO: Objection. Leading, Your Honor.

20 THE COURT: Sustained as to form.

21 Q. BY MS. POLK: This -- what's shown in the
22 photograph, being the rat biscuits being on a
23 plate, why would they be on a plate?

24 A. To contain them. To have -- we didn't
25 want to use anything to begin with. But if we're

1 going to, let's contain it to one little area.
2 This way if they wanted to eat, there was food
3 there for them to eat.

4 Q. Did it strike you as strange to be giving
5 rats something to eat on a plate?

6 MS. DO: Objection. Leading, Your Honor.

7 THE COURT: Overruled.

8 You may answer that, sir.

9 THE WITNESS: Yes and no.

10 Q. BY MS. POLK: What do you mean?

11 A. Our belief is that we can communicate
12 with animals, and we've done the best we could. We
13 have had people there that would -- let's say
14 supported us in asking the ants, stay off the
15 trails. You can have any other place you want to
16 go.

17 We would talk to the animals, the rats.
18 Don't eat anything. So by putting them on the
19 plate, we're saying if you're going to continue
20 messing things up, here's something for you.

21 Did I feel comfortable with it? No. I
22 did not. But I didn't know any other way of
23 dealing with it.

24 Q. And then I'm going to put up on the
25 overhead Exhibit 800. Can you tell the jury what

1 that is.

2 A. That was the One Bite biscuit that we
3 found to be the most effective of all the ones that
4 we used. So that would be the one that was on the
5 plate that you saw in the pump house.

6 Q. Parts of that series of staged
7 photographs?

8 A. Yes.

9 Q. Could the cats, by the way, get into the
10 pump house?

11 A. No.

12 Q. I'm going to put up on the overhead
13 Exhibit 145 and ask you if you recognize that to be
14 the sweat lodge ceremony from October 8th of 2009?

15 A. Yes.

16 Q. Were you at Angel Valley on October 8th,
17 2009?

18 A. I was.

19 Q. I want to ask you specifically some
20 questions about the landscaping around that sweat
21 lodge.

22 A. Okay.

23 Q. Did you have a weed problem in that area?

24 A. From time to time, yes, we would.

25 Q. And how did you take care of it?

1 A. We would pull the weeds.

2 Q. Did you ever bring in additional earth
3 for the area around the sweat lodge?

4 A. Not earth. No.

5 Q. Did you bring in something from the
6 outside to create a surface for the sweat lodge?

7 A. We did.

8 Q. What did you bring in?

9 A. We brought in what's called an "unwashed
10 bedding sand," which is made by Rinker Material in
11 Camp Verde.

12 Q. How often did you bring in sand?

13 A. Well, all our trails are made with it.
14 So maybe on an average one load a year, maybe.
15 Depends on how active we were on trails and if we
16 were building any new ones.

17 Q. Who was it, then, that would take that
18 sand and spread it around the various places at
19 Angel Valley?

20 A. One of our landscapers.

21 Q. Did you have a site where the sand was
22 stored waiting to be spread around Angel Valley?

23 A. We had a couple sites.

24 Q. Where were those sites?

25 A. Years earlier it would have been up the

1 **hill way off this -- I mean, way off from this.**
 2 **In 2009 if you see the -- you see this man with the**
 3 **blue? It would have been about another 50 feet**
 4 **toward the center of the mountain further back.**
 5 **That's where there was a sand pile. And it's still**
 6 **there today.**

7 **Q.** Did you use any sort of fabrics
 8 underneath the lodge itself?

9 **A. We did.**

10 **Q.** What did you use?

11 **A. Went to the landscaping store, asked what**
 12 **products they have. And it was a fiber mesh that**
 13 **allowed water and everything to go through it, but**
 14 **no weeds could grow up.**

15 **Q.** Do you recall when it was that you began
 16 using that fiber mesh?

17 **A. I want to say around 2005.**

18 **From the whole property or just on that**
 19 **lodge.**

20 **Q.** I was talking about the area of the sweat
 21 lodge.

22 **A. 2005 when we first made the site.**

23 **Q.** Did you use it at other sites at Angel
 24 Valley?

25 **A. We did.**

1 **Q.** What was that material made up of?

2 **A. I want to say a nylon product.**

3 **Q.** I'm going to put up on the overhead
 4 Exhibit 242 and zoom in and show you some areas
 5 where the mesh seems to be coming up through. Can
 6 you see that?

7 **A. I'm not sure where you're pointing to.**

8 **Q.** This, for example. Have you seen this
 9 photograph before?

10 **A. No, I have not.**

11 **Q.** Do you recognize what that is that I just
 12 circled? Let me bring up the photograph to you.
 13 I'm going to show you Exhibit 242. I'll tell you
 14 this is late August of 2008, the construction of
 15 the sweat lodge.

16 **A. Okay. Yes.**

17 **Q.** Do you recognize --

18 **A. I do.**

19 **Q.** -- what's coming up through the sands?

20 **A. Yes.**

21 **Q.** What do you recognize it to be?

22 **A. A fabric we bought from Costco. It was**
 23 **very expensive. There were two kinds of it, gray**
 24 **and black.**

25 **Q.** What did you use it for?

1 **A. Weed protection.**

2 **Q.** Beginning in what year did you use the
 3 fabric from Costco?

4 **A. When they first started handling it.**

5 **Probably 2005, 2006.**

6 **Q.** To your knowledge, was that fabric there
 7 underneath the sweat lodge for all the ceremonies
 8 from 2005 forward?

9 **A. Yes.**

10 **Q.** And for that fabric mesh that you talked
 11 about, what year did you start using that?

12 **A. 2002 when we laid the first labyrinth.**
 13 **We put black fabric down there.**

14 **Q.** And was that fabric ever underneath the
 15 sweat lodge?

16 **A. Not that -- not based on those**
 17 **photographs. No.**

18 **Q.** Do you know how often sand that was
 19 stored was brought in to add to or cushion the area
 20 of the sweat lodge?

21 **A. Not that often. But it would occur --**
 22 **let's say if we had a heavy rain and downpour, that**
 23 **something washed away. We would always make sure**
 24 **that fabric was normally covered, that no one could**
 25 **actually see the fabric, that you can walk on the**

1 **actual sand. It would be sporadic.**

2 **Q.** Did Angel Valley get the summer monsoons
 3 or early fall monsoons?

4 **A. I would say we did.**

5 **Q.** Did you ever have a time when your
 6 property was flooded?

7 **A. We did.**

8 **Q.** What year was that?

9 **A. 2004, 2005.**

10 **Q.** Mr. Hamilton, I'm going to put up on the
 11 overhead Exhibit 493 and ask you if you recognize
 12 what that is?

13 **A. I do.**

14 **Q.** What is that?

15 **A. Those are remnants, cedar logs, what we**
 16 **call a "double D log."**

17 **Q.** Do you know where on your property that
 18 stack of logs is?

19 **A. I see where the picture shows it being.**
 20 **Yes.**

21 **Q.** Where is it?

22 **A. Right near the sweat lodge.**

23 **Q.** Do you know when it was that you first
 24 brought in these logs and stacked them there or had
 25 them stacked there?

1 **A. 2009. They were just across the way**
 2 **before that.**
 3 **Q.** And when you told the jury they are --
 4 what kind of logs are they?
 5 **A. Cedar.**
 6 **Q.** And where do they come from?
 7 **A. Maine.**
 8 **Q.** What year did you get those logs?
 9 **A. 2004.**
 10 **Q.** What was the purpose in 2004 in getting
 11 those cedar logs?
 12 **A. We were beginning to build log homes. I**
 13 **wanted to build log homes on the property. Those**
 14 **logs were actually used to build the pump houses**
 15 **that are there.**
 16 **Q.** The pump houses that the jury has been
 17 seeing?
 18 **A. Yes.**
 19 **Q.** And what else did you have built with the
 20 cedar logs?
 21 **A. We wound up building one of the cabins.**
 22 **But as it turned out, the logs were not -- they had**
 23 **imperfections. They were cracked. And because we**
 24 **didn't use them right away, most of them became**
 25 **unusable.**

1 **Q.** When you first acquired those logs in
 2 2004, what were you looking for?
 3 **A. We were going to build cabins at that**
 4 **time.**
 5 **Q.** Why go to Maine for these logs?
 6 **A. It was the company that I was working**
 7 **with. And I thought if I -- I was still open to**
 8 **doing some selling of log homes at that time.**
 9 **Q.** Were you looking for a specific type of
 10 log to construct the cabins on your property?
 11 **A. I was.**
 12 **Q.** Tell the jury what you were looking for.
 13 **A. I was looking for the same type of**
 14 **exterior shape log that I'd been using since 1974.**
 15 **And this particular company was a -- I met them in**
 16 **Maine when I was dealing with the main company that**
 17 **I was dealing with in Maine back in 1974. So it**
 18 **was familiar. And they were ones that had the best**
 19 **product for what I wanted to offer.**
 20 **Q.** How much did you purchase at that time?
 21 MS. DO: Objection, Your Honor. Relevance.
 22 THE COURT: Overruled.
 23 **Q.** BY MS. POLK: That means you can answer.
 24 **A. We bought two tractor trailer loads of**
 25 **logs.**

1 **Q.** How did they arrive to your property?
 2 **A. Tractor trailer.**
 3 **Q.** Mr. Hamilton, I'm going to show you
 4 what's marked as Exhibit 293. Because this is
 5 physical evidence, standard procedure is always to
 6 use gloves when we touch physical evidence.
 7 Detective Diskin is going to give you a
 8 pair. I'll have you go ahead and put them on,
 9 please.
 10 MS. DO: Your Honor, my understanding is
 11 Exhibit 293 is a photo of the log, and this is the
 12 physical item. So the record reflects that.
 13 THE COURT: I've got a note. It's 903.
 14 **Q.** BY MS. POLK: Now, without taking it out,
 15 I just want you to look at it first and tell me
 16 whether or not you recognize it.
 17 **A. I do.**
 18 **Q.** How do you recognize it?
 19 **A. It's one of ours.**
 20 **Q.** What about this makes you realize it's
 21 one of your's?
 22 **A. The log itself, the shape. I remember**
 23 **many of the logs had this type of a cracking in it.**
 24 MS. POLK: Your Honor, I move for the
 25 admission of Exhibit 903.

1 MS. DO: No objection.
 2 **Q.** BY MS. POLK: Will you go ahead and take
 3 it out of the box now.
 4 THE COURT: Okay. 903 is admitted.
 5 Demonstrative to the log itself that
 6 appears in the photograph?
 7 MS. POLK: Yes, Your Honor.
 8 THE COURT: Okay. It's admitted at this time.
 9 (Exhibit 903 admitted.)
 10 MS. POLK: Thank you.
 11 **Q.** You can go ahead and take it out, please.
 12 If I could get you first to look at the
 13 photograph that's up on the overhead. Is this of
 14 the same logs, the same group of logs, on the
 15 overhead?
 16 **A. Yes. This would normally be rounded.**
 17 **Part of the difficulty we had with the logs we got,**
 18 **this would split out. Some of those were rounded.**
 19 **And here, again, what you call the double groove**
 20 **and the double tongue. So yes.**
 21 **Q.** Were you aware, after October 8th, of
 22 Detective Diskin and some other detectives on your
 23 property seizing some of this wood?
 24 **A. Absolutely.**
 25 MS. POLK: Your Honor, at this time, could I

1 ask Mr. Hamilton just to walk it over and show it
2 to the jury?

3 THE COURT: You may do that.

4 Q. BY MS. POLK: Start here and hold it out
5 so the jurors can look at the log a little bit.

6 Thank you. You can have a seat.

7 Actually, before you sit down, you mentioned the
8 various features. Will you go over them one by one
9 and show the jury what you mean.

10 A. A regular log -- I'll share the
11 differences. The rounded log that we had an option
12 way back when to go with was just a regular log,
13 more rounded than this shape is.

14 This would be called the "inner side."
15 This would be the inside of the -- when you're
16 actually in your house, in the cabin, this is what
17 you would be looking at. It would have a little
18 bevel here, a little bevel here, and would give you
19 a nice uniform wall so you could hang pictures on
20 it.

21 Dusting would be very easy. That was
22 another reason we went with this log. The rounder
23 logs are dust-catchers. It's just hard to keep
24 them clean. These are much easier to keep clean.

25 This would be the inside. This would be

1 the outside. And then we would put a gasket
2 down -- actually, the best way to do it is to put a
3 gasket here in the middle and caulking on either
4 side of this.

5 This would create -- no air or water
6 could penetrate and go in. This doesn't have that.
7 And these are the grooves in the bottom where the
8 next log -- this would go on top of the grooves
9 here on the log beneath it. You would then screw
10 it with a long lag screw securing them down.

11 Q. BY MS. POLK: Thank you. You can go
12 ahead and put it back in the box and take the
13 gloves off.

14 Mr. Hamilton, do you know what
15 pressure-treated wood is?

16 A. I do.

17 Q. How do you know?

18 A. I've used a lot of it over the years.

19 Q. Over your years in the building business?

20 A. Yes.

21 Q. Would you tell the jury what
22 pressure-treated would is.

23 A. Pressure-treated lumber is created when
24 you have the potential of dirt connecting with it,
25 water can be connecting with it. And it's to keep

1 termites out, to keep dry rot from happening. It's
2 a protective product that you use between concrete
3 and where the actual wood of your house would be.

4 Every house should be built with a
5 pressure-treated sill plate or double-sill plate,
6 as termites can't bore up through, in theory
7 anyway. They're not supposed to be able to bore
8 through the wood to get up to the main frame of the
9 house.

10 Q. Are you able to recognize
11 pressure-treated wood on sight?

12 A. Generally speaking, yes.

13 Q. And how would you recognize
14 pressure-treated wood?

15 A. To me there are two different types.
16 There is the injected, where you actually -- they
17 call it, actually, "wolmanizing," where they
18 actually take an injector and you'd see little
19 holes throughout the whole wood.

20 Another type is where you actually --
21 they dip it and use pressure to force it in. Those
22 are the two that I'm familiar with.

23 Q. Is that log in front of you pressure
24 treated?

25 A. No.

1 Q. How do you know?

2 A. Number one, I can see it. Number two,
3 many years ago --

4 May I pick up the log one more time?

5 Q. Yes.

6 A. Years ago when I first got in the
7 industry, there were companies back then that would
8 literally dip the entire log. They'd have a big
9 vat. They'd go -- they'd dip it into a -- call it
10 a bug preventer. But what happened back in the
11 early '70's, this would outgas. People would
12 actually become ill because of the original way
13 that some companies did it.

14 When I got in the business back in 1974,
15 I wanted no part of any company that had any
16 dipping. Because if you're going to breathe this
17 toxic thing, it's not good.

18 From the very beginning of my time in the
19 log home industry, I never went with any product
20 that had any preservative on it at all. That was
21 just a no-no.

22 Q. And for the -- all of the logs that are
23 in the photograph that's on the overhead, are any
24 of those pressure treated?

25 A. No.

1 Q. Did you use some pressure-treated wood
2 when you constructed the cabins or the pump house?
3 A. We did.
4 Q. And for what purpose?
5 A. The sill plates along the bottom where
6 the concrete like the -- let's say if that's the
7 concrete. The sill plate would go there, and then
8 your log would fit on top of it. In other words,
9 no bug can come up through here. This would not --
10 termites would not eat it. It was safe to put your
11 wood on top of it.
12 Q. Is that standard in the industry?
13 A. Yes.
14 Q. Is it actually required? Do you know?
15 A. Yes. By code.
16 Q. What did you do at Angel Valley with the
17 wood that was pressure treated when you were
18 finished with it, if you had leftover wood, for
19 example?
20 A. It was a standard policy. We had a burn
21 pile. We lived in the country, so we could burn.
22 It was standard policy that any of the lumber that
23 was pressure treated would be thrown away, never
24 burned.
25 Q. And what do you mean thrown away? Where

1 would you throw it away?
2 A. We had a 40-yard dumpster that was on the
3 site all the time when we were in construction.
4 Any pressure-treated lumber would go in the
5 dumpster and be thrown away.
6 Q. If you look at the exhibit that's up on
7 overhead, do you see this scrap pile in the
8 foreground?
9 A. I do.
10 Q. Do you recognize what it is?
11 Do you want me to bring you the actual
12 photograph?
13 A. Could you, please. We also -- we have a
14 bridge that we painted a lot of -- looks like there
15 are bolt holes in the logs.
16 Q. What's that word you said?
17 A. Bolt holes. We had a bridge that we
18 built that would have also -- that we painted the
19 bridge -- a lot of the lumber green. It could be
20 that also. But I don't remember any -- to me, it
21 doesn't look like any pressure-treated lumber we
22 got. The injected is more of the green color.
23 Where they pressure it in by Lumbermen's was more a
24 bluish color.
25 Q. What do you believe the wood that's in

1 the foreground of this picture to be then?
2 A. I would imagine it's from the bridge
3 construction, from the lumber that we would -- in
4 2005 our bridge -- the original photograph they had
5 was of the bridge showing -- there was a 20-foot
6 rise in the water up. So the bridge had three foot
7 of water over the deck.
8 And the whole one side broke the 2-by-12s
9 of lumber. Because the water just came through and
10 ripped it out. That would have been 2005, 2006.
11 The same time we had the lumber brought in. Any
12 lumber that was still valuable, we would use it for
13 what we call "blocking material" or "stacking
14 material."
15 I'm guessing that would be what we used
16 it for, because this pile was -- let's say, 30 feet
17 to the right of this is where all the logs were
18 stacked for, like, three or four years. That's
19 where we had all kinds of miscellaneous lumber that
20 would have been there.
21 And let's say if we were stacking and you
22 had a log like that. You would put something
23 underneath this side to bring it up and make it
24 level so the stacks wouldn't be falling. That's my
25 guess what it was used for.

1 Q. And your policy that any pressure-treated
2 wood never be burned and taken off to the dump --
3 A. Absolutely.
4 Q. -- how did you make that policy known to
5 your employees?
6 A. With every person there. I would
7 normally be involved in the burning process. And
8 say -- because we would have to call the fire
9 department and say we're having a burn. And if I
10 saw any lumber there, I would say no, no. Throw it
11 away. It's very toxic if you burn it.
12 Q. Thank you.
13 Your Honor, I see that it's noon.
14 THE COURT: Thank you, Ms. Polk.
15 Ladies and gentlemen, we will take the
16 noon recess. Remember the admonition.
17 I wanted to speak with Mr. Hamilton
18 briefly about the rule of exclusion of witnesses.
19 I'm sure you discussed that with the attorneys.
20 That means you cannot communicate with any other
21 witness about the case or your testimony until the
22 trial is completely over.
23 It's really a good idea not to talk to
24 anyone about the case until it's over. However,
25 you can talk to the attorneys as long as other

1 witnesses are not present.
 2 Do you understand.
 3 THE WITNESS: Yes, I do.
 4 THE COURT: Thank you, sir.
 5 Mr. Hamilton and the jury, we will be in
 6 recess now.
 7 (Recess.)
 8 THE COURT: The record will show the presence
 9 the Mr. Ray, the defendant; the attorneys, the
 10 jury. Mr. Hamilton is back on the witness stand.
 11 You are under oath, of course.
 12 Ms. Polk?
 13 MS. POLK: Thank you.
 14 Q. Good afternoon, Mr. Hamilton.
 15 A. **Good afternoon.**
 16 Q. I want to cover the different types of
 17 products you used at Angel Valley to address the
 18 rat problem that you testified about.
 19 A. **Okay.**
 20 Q. What do you recall today in terms of the
 21 names of the various products that you used?
 22 A. **One Bite would be one.**
 23 Q. That's the photograph that we saw
 24 earlier?
 25 A. **Correct. There was a green pellet, which**

1 **I believe is by D-Con. I'm not sure of the name.**
 2 Q. You mean the letter "D"?
 3 A. **C-o-n. Yes.**
 4 Q. And the other?
 5 A. **The other product is a green biscuit**
 6 **also, but I don't remember the name of it. I know**
 7 **when I look at the shelf at Ace, I know what it is.**
 8 **But I don't remember the name right now.**
 9 Q. And you say, "the shelf at Ace"?
 10 A. **Ace Hardware.**
 11 Q. Is that where you went to purchase your
 12 products?
 13 A. **Yes.**
 14 Q. Are you familiar with a product called
 15 "JR Eat Um Green"?
 16 A. **Yep. That would be it.**
 17 Q. That's the third product that you used?
 18 A. **Yes.**
 19 Q. Other than those three products, did you
 20 ever use any other product to address the rat
 21 issue?
 22 A. **No.**
 23 Q. Were there areas that you had rats that
 24 the cats could not go other than the pump house?
 25 A. **Occasionally in the -- I wouldn't say**

1 **they were rats, but mice in the attics, like in the**
 2 **Yellow House, or dining areas. There would be over**
 3 **the beds -- occasionally guests would be sleeping**
 4 **there, and they would hear these mice running. And**
 5 **then we would put either -- we would put the --**
 6 **that would be the pellet, maybe the pellets up**
 7 **there. And we'd also put mouse traps underneath**
 8 **the bed to see if we could catch them.**
 9 Q. With the D-Con, do you remember what
 10 years at Angel Valley you used that? That's the
 11 bluish pellets.
 12 A. **I would say from 2006, 2007, right in**
 13 **that window of time, when we had the problem in the**
 14 **vehicles. Because, generally speaking, I let them**
 15 **do what they want to do except when they get in and**
 16 **start causing damage. I don't remember a lot of**
 17 **problems before then. And I don't remember any**
 18 **problems after we got the cats.**
 19 Q. In 2007?
 20 A. **Yes.**
 21 Q. Did you ever make an insurance claim for
 22 the damage to your vehicles?
 23 A. **No.**
 24 Q. For the damage done by the rats?
 25 A. **No. Didn't know I could, actually.**

1 Q. I don't know either. You mentioned a
 2 concern for perfumes and smoking. Did Angel Valley
 3 cater to chemically-sensitive people?
 4 A. **Yes, we did.**
 5 Q. How did you make that known?
 6 A. **On our website. And when people would**
 7 **come, we would say -- especially on the phone -- we**
 8 **would say, there's no drinking, no smoking, no**
 9 **heavy perfumes, because we -- the clientele that**
 10 **comes are very sensitive to smells and to sounds.**
 11 **It's just something that -- and my wife is also**
 12 **sensitive to smell.**
 13 **And from the very beginning we -- even on**
 14 **our house at Back O' Beyond -- never had anything**
 15 **that would bring up -- senses are one of the most**
 16 **important things that actually connect with life.**
 17 **So we would not ever do anything knowingly to**
 18 **dampen or desensitize people to -- we could awaken**
 19 **the senses.**
 20 Q. I want to ask you some questions about
 21 the cedar wood that you purchased.
 22 A. **Okay.**
 23 Q. Will you remind me the name the company
 24 you purchased it from.
 25 A. **Hilltop Log Homes.**

1 Q. What year was that?
 2 A. **Would have been 2004.**
 3 Q. The wood that you purchased from Hilltop
 4 Log Homes -- is that the wood, then, seen in
 5 Exhibit 943?
 6 A. **Yes, it is.**
 7 Q. Did you purchase wood from Hilltop Log
 8 Homes more than once?
 9 A. **I did.**
 10 Q. When else?
 11 A. **First time would have been in 2000 when**
 12 **we bought a log home and built it for people over**
 13 **in the Village of Oak Creek. Then again in 2004.**
 14 **And then in 2006 we bought a total of six different**
 15 **log cabins from them, which we rented on our**
 16 **property.**
 17 Q. In 2006?
 18 A. **Yes.**
 19 Q. And is any of the wood purchased in 2006
 20 seen in this photograph?
 21 A. **No.**
 22 Q. What is in this photograph?
 23 A. **This is the product that we bought in**
 24 **2004 and the random logs that we were going to**
 25 **build the actual cabins out of.**

1 MS. DO: Your Honor, just for the record, I
 2 think counsel misspoke, said this is 943. I
 3 believe it's 493.
 4 THE COURT: Thank you, Ms. Do.
 5 Would you check that, Ms. Polk.
 6 MS. POLK: 493.
 7 Thank you.
 8 Q. You've already testified that the wood
 9 was not pressure treated. Did the wood have any
 10 sort of chemical treatment?
 11 A. **None.**
 12 Q. And explain what you mean by "none."
 13 A. **When the logs would actually be in place,**
 14 **when we actually build the houses, we would then**
 15 **either do one of two things. Either put a -- call**
 16 **it an immediate sealer on it. We would put a**
 17 **color -- let's say a color. And then we would go**
 18 **over the top of it with a sealer.**
 19 **We have a couple log homes that we**
 20 **actually are bare yet because we never put anything**
 21 **on inside or the outside. We have done all the**
 22 **inside cabins but we have not finished the outside.**
 23 **And then we would use a stain from Sashco that**
 24 **would be the outside coating. Then we'd put a**
 25 **clear sealer on top of it.**

1 Q. And that's after the cabin or the
 2 building was constructed?
 3 A. **Correct.**
 4 Q. I'm going to put up on the overhead
 5 Exhibit 830 and ask you what wood was used, first
 6 of all, to purchase this -- to build this building
 7 that we see?
 8 A. **This was part of the logs that we bought**
 9 **in 2006 from Hilltop Log Homes.**
 10 Q. And was that wood treated prior to your
 11 using it to build?
 12 A. **No.**
 13 Q. At some point did you stain the wood
 14 after the cabin was built?
 15 A. **We did not -- no. We did not get to**
 16 **those cabins.**
 17 Q. Is this cabin painted, this wood?
 18 A. **No.**
 19 Q. Does this wood have anything on it at
 20 all?
 21 A. **No.**
 22 Q. How about treatment from the weather?
 23 A. **The logs have a natural weathering look.**
 24 **It's more of a grayish look. When we want to go**
 25 **and seal it, then we sand them down and actually**

1 **put the color on.**
 2 Q. Did you ever seal this?
 3 A. **No.**
 4 Q. And let's go back to Exhibit 493. I want
 5 to direct your attention to some of the different
 6 colorations that we see, for example, in this stack
 7 of wood. Do you --
 8 A. **Yes. For an example, this one and that**
 9 **one, the lighter color would indicate that it was**
 10 **just recently sawed. When you -- even though the**
 11 **outside would have a coloration, when you saw it,**
 12 **you would wind up -- and cut it with a saw -- you**
 13 **would wind up with a lighter color wood on the**
 14 **inside. That's what you're seeing there.**
 15 **The ones directly above it, those two,**
 16 **the darker ones, they're ones that have been**
 17 **weathered. They've been out in the weather since**
 18 **2004. Nothing was done to them. And that's the**
 19 **coloration that comes after just being exposed to**
 20 **the weather.**
 21 Q. And how is it, then, that the ones that
 22 have been exposed to the weather longer are kind of
 23 mixed in with some of the newer looking ones?
 24 A. **As I shared earlier, to the right of this**
 25 **pile was a larger pile of all the different logs**

1 that we had. Let's say, four or five, six pallets
2 of the logs. They were in different lengths. In
3 order to use them for a fire, you need to cut them
4 about 18 inches, anywhere from 12 to 18 inches.

5 We had one man that was working there at
6 the time, would take the logs, would cut them, and
7 would stack them over there so they're usable.
8 When you have logs 5 foot long, 8 foot long,
9 they're not usable for anything. So we needed to
10 cut them down and clean up the pile of these logs
11 that were the larger pile over to the -- on the
12 other side.

13 Q. How long have you known -- were these
14 logs before they were cut in to smaller sizes?

15 A. Can you repeat that.

16 Q. What was the length of the logs from the
17 first pile before they got cut into pieces?

18 A. Anywhere from 4 to 8 feet, maybe 10 feet
19 in length.

20 Q. Do you know who it was who was doing the
21 sawing for you?

22 A. Our one landscaper.

23 Q. What was his name?

24 A. Rotillo.

25 Q. Mr. Hamilton, are any of the logs that

1 are in this stack of wood -- were any of them ever
2 treated in any way?

3 A. No.

4 Q. Did any of them ever have any type of
5 chemical at all on them?

6 A. No.

7 Q. Did you ever cover that log, that stack
8 of logs, with anything?

9 A. They were covered when they were on the
10 other side.

11 Q. What did you cover them with?

12 A. With the original packing material
13 that -- when a truck comes down from wherever and
14 they have lumber on it, they normally pack it with
15 a -- like, tie bands, something you put on the
16 outside of the home before you put the coating on.
17 The whole log is covered to keep it clean as it's
18 being transported to our location.

19 When it was transported, it had all these
20 bands of -- looks like plastic. But it's a heavier
21 grade. We would use that to keep them stored and
22 wrapped as long as we could. When they got moved
23 over here, none of that was wrapped or covered.

24 Q. All of the logs that appear in this stack
25 here are from your 2004 purchase from Hilltop?

1 A. They are.

2 Q. The runner that we see in this
3 photograph -- or I shouldn't say runner. This
4 material that goes across the bottom --

5 A. It's called a "runner."

6 Q. It is called a "runner"?

7 A. Yes.

8 Q. What wood is that?

9 A. Same type. It's the same type of wood
10 before it was actually cut down. We would use the
11 longer boards to put on the bottom to put the logs
12 on top of it, to keep the bugs from coming up
13 through that and to keep it dry.

14 Q. Same type of wood as what?

15 A. As what's on top of it. Would be the
16 same cedar wood.

17 Q. Without any treatment?

18 A. Without any treatment.

19 Q. How long has it been that this particular
20 stack of wood -- let me rephrase that. How long
21 has it been that you've been stacking wood, taking
22 from the first pile and putting it at this
23 location?

24 A. Just during 2009.

25 Q. And prior to 2009 where was it?

1 A. On the other side of the roadway -- it
2 was about 30 to 40 feet from this.

3 Q. Did you ever use wood from that stack for
4 things other than heating the rocks for the sweat
5 lodge ceremonies?

6 A. We built log cabins out of it.

7 Q. Anything else?

8 A. Pump houses out of it.

9 Q. Did you ever burn that wood for any other
10 purpose?

11 A. We had our own -- one of the fireplaces
12 we had, we did it one year, some of the wood that
13 was there.

14 Q. Where did you have a fireplace that you
15 burned wood in?

16 A. In the Yellow House or dining facility
17 has a fireplace in it.

18 Q. What year was it that you burned wood?

19 A. Beginning of 2009, I would say. As best
20 I can recall, 2009.

21 Q. Were you present when the cedar wood was
22 burned inside the Yellow House?

23 A. Yes.

24 Q. Do you recall how long you burned that
25 wood for inside the Yellow House?

1 **A. Per day or for what length of -- month?**

2 **Q.** Was it more than just one evening, one
3 occasion?

4 **A. It was a few different occasions. I**
5 **don't remember how many.**

6 **Q.** Did you ever get sick after being present
7 when that wood was burning inside the Yellow House?

8 **A. No.**

9 **Q.** The jury has heard testimony about a fire
10 ceremony at Angel Valley. Are you familiar with a
11 fire ceremony at Angel Valley?

12 **A. I am.**

13 **Q.** What is that?

14 **A. There is different types of -- which one**
15 **are you referring to?**

16 **Q.** I'll tell you what my question is going
17 to be. What wood was used to burn -- well, let me
18 back up. In a fire ceremony do you burn wood?

19 **A. We do.**

20 **Q.** What wood did you burn?

21 **A. Over the years before I decided to, let's**
22 **say, get rid of this large pile of lumber that we**
23 **weren't going to be using for building anymore, we**
24 **would gather the trees when the trees would fall**
25 **down next to the creek. Beavers would chew them.**

1 **We'd cut them. Storms would come. There'd be dead**
2 **branches. And we would use that wood for the**
3 **different fires that we would have in fire**
4 **ceremonies.**

5 **Q.** What year did you start burning the cedar
6 wood that you purchased in 2004 from Hilltop Log
7 Homes?

8 **A. 2009.**

9 **Q.** And did you ever burn any of that wood in
10 any of the fire ceremonies?

11 **A. That would have been burned at any of the**
12 **sweat lodge ceremonies we had through 2009, I would**
13 **believe.**

14 **Q.** Do you recall or do you know if it was
15 used for any sort of family camping trips?

16 **A. Yes. It would have been. We had one**
17 **particular group that would come, I want to say,**
18 **probably three or four times during the year**
19 **of 2009. And we had one particular, what we call**
20 **"ceremonial fire area," that was probably from here**
21 **to where Detective Diskin is and probably to that**
22 **wall that was cleared. There were no trees above**
23 **it and a fire pit in the center. They would do**
24 **fire ceremonies there.**

25 **We took this lumber when we cut this, and**

1 **we also stacked the lumber down for those**
2 **ceremonies. And normally when the particular**
3 **facilitator would come, I was the one that would go**
4 **and start the fire at 8:00 o'clock, 9:00 o'clock,**
5 **at night.**

6 **So there were -- at least on three**
7 **different occasions, I took that lumber, not this**
8 **pile, but lumber like that from another location**
9 **and started a bonfire for the woman to do her**
10 **ceremony.**

11 **Q.** Were you ever aware of anybody getting
12 sick after that wood was used for any of those
13 fires?

14 **A. Never.**

15 **Q.** I'm going to ask you, Mr. Hamilton, if
16 you've ever heard of organophosphates?

17 **A. I did.**

18 **Q.** You have heard of organophosphates?

19 **A. Yes.**

20 **Q.** When did you hear of that?

21 **A. When I met with Ross Diskin.**

22 **Q.** On which occasion?

23 **A. February, March, whenever we had -- right**
24 **before I got you all -- we got you all the**
25 **information. I don't know that exact date.**

1 **Q.** Of 2011?

2 **A. 2011.**

3 **Q.** Do you know what an organophosphate is?

4 **A. I know now.**

5 **Q.** To your knowledge, have you ever applied
6 any products containing organophosphates at your
7 property?

8 **MS. DO:** Objection, Your Honor. Foundation.

9 **THE COURT:** Sustained.

10 **MS. POLK:** Your Honor, he testified that he
11 knows what organophosphates are. My question is to
12 his knowledge, has he ever applied any products at
13 Angel Valley?

14 **MS. DO:** I heard his testimony. He says he
15 knows now. He didn't know prior. There is a
16 foundational issue.

17 **THE COURT:** I'm sustaining on foundation.

18 **Q.** BY MS. POLK: Mr. Hamilton, you testified
19 you know now what organophosphates are.

20 **A. Correct.**

21 **Q.** With that knowledge, are you able to
22 answer the question whether you ever applied any
23 products at Angel Valley containing
24 organophosphates?

25 **A. Not to my knowledge. No.**

1 Q. Have you ever applied or used nerve
2 gasses at Angel Valley?
3 A. No.
4 Q. Do you know what sarin is? The --
5 A. **I heard it on TV, but I don't know other**
6 **than that what it is.**
7 Q. The gas used in the Tokyo subway attack
8 several years ago?
9 A. **I heard of it.**
10 Q. Have you ever applied sarin on your
11 property?
12 A. No.
13 Q. Have you ever applied any products to do
14 any sort of crop dusting at your property?
15 A. No.
16 Q. Have you ever had anybody come in and
17 spray any sort of product on your property at all?
18 A. No.
19 Q. Outside of what you testified to as to
20 your personal use?
21 A. No.
22 Q. Do you recall a rain -- a heavy rainstorm
23 in September of 2009?
24 A. **Not offhand. Not offhand.**
25 Q. Do you recall a heavy rainstorm in the

1 fall of 2009 that flooded Tlaquepaque in the Sedona
2 area?
3 A. **I remember that. Yes.**
4 Q. Do you recall when that was?
5 A. **Not offhand.**
6 Q. Do you recall whether you also received
7 rain at Angel Valley at the same time that flooding
8 occurred at Tlaquepaque?
9 A. **We received some rain. But I do remember**
10 **whenever that was, the flooding downstream was not**
11 **nearly as bad as what it was in Tlaquepaque. When**
12 **I saw the photos in the newspaper, Tlaquepaque was**
13 **flooded. We didn't have anything that -- well,**
14 **that severe where we were.**
15 Q. When was the last time your property
16 actually got flooded?
17 A. **Can you be more clear? Because we had**
18 **what's considered a flood. We had our footbridge**
19 **taken out.**
20 Q. What year was that?
21 A. **2010. It would have been October,**
22 **November. The water only has to go up about seven**
23 **feet in order for the footbridge to be taken out.**
24 Q. When it rains at Angel Valley, which way
25 does the water drain?

1 A. **It comes in from the east side of the**
2 **property, circles around the property, and goes out**
3 **what would be called the "south side."**
4 Q. Do you know whether organophosphates are
5 dissipated by water?
6 MS. DO: Objection. Foundation.
7 THE COURT: You can answer. That would be yes
8 or no if you can answer.
9 THE WITNESS: No. I don't know.
10 Q. BY MS. POLK: You don't know?
11 A. No.
12 Q. When it rains at Angel Valley, does the
13 water flood to the creek area?
14 A. **Yes. The water does rise.**
15 Q. I wanted to ask you now about the Angel
16 Valley Retreat Center and the business that you and
17 your wife run there. First of all, tell the jury
18 what your role is in that business.
19 A. **Mine is more of the ministry of the Angel**
20 **Valley Ministry and the philosophy, the mission,**
21 **the vision of what it's about, doing the best when**
22 **can on the telephone with people to let them know**
23 **what we're about. So mine is more of the -- call**
24 **it the philosophical aspect of it.**
25 **My wife would be more in the retreat**

1 **center on the day-to-day operations as far as who's**
2 **actually coming. She will do more checking in on**
3 **people than I will as far as when they come and**
4 **check in. She will meet them, have them sign the**
5 **paperwork, take them to the room, and do the**
6 **arrangements one on one that way.**
7 Q. Who does the finances?
8 A. **I do.**
9 Q. Who does the contracts with parties who
10 are coming in?
11 A. **I do.**
12 Q. I want to put up on the overhead the
13 Angel Valley waiver. And it comes from
14 Exhibit 736, which is a packet, again, given by
15 Mr. Ray and his company to participants for his
16 Spiritual Warrior event. It contains a waiver.
17 And I can bring it to you --
18 A. **I can see it.**
19 Q. Are you familiar with this piece of
20 paper?
21 A. **I am.**
22 Q. And who is it who drew this up?
23 A. **Between myself and our attorney.**
24 Q. Do you recall what year?
25 A. **A version of this has been there since**

1 **2004, 2005.**

2 **Q.** What do you use this for?

3 **A.** When people come to the land -- back up
4 for a moment. We believe that everybody creates
5 their own reality. And when people come, we're
6 asking them to take responsibility for what they
7 create while they're there. Because I cannot be
8 responsible if somebody's walking on the trail or
9 jumping over the creek and they fall in.

10 So we're asking people to take their
11 responsibility for what they create. So we're
12 letting people know up front, these are the things
13 that we expect when you're here.

14 We will provide safe trails. Everything
15 is safe as we humanly know how. But you also as a
16 guest have to take a certain level of
17 responsibility for your own creation. That's what
18 this is. It's to be very clear with who is coming,
19 who is responsible, and what our role is and what
20 the participant's is.

21 **Q.** Who is required to sign this waiver?

22 **A.** Every person that comes on the property.

23 **Q.** Mr. Hamilton, how many employees does
24 Angel Valley have today?

25 **A.** Right now none.

1 **Q.** How many did you have in October of 2009?

2 **A.** Probably seven or eight.

3 **Q.** Can you tell the jury the names of the
4 employees back then.

5 **A.** Kirsten Johnson, Fawn Foster, Ingrid
6 Hardy, Shawna Smith, Jordan Roth, Rotillo Vasquez.
7 There may have been one or two others, but I can't
8 remember their names right now.

9 **Q.** Is Fawn Foster employed at Angel Valley
10 today?

11 **A.** She's a volunteer there today. We're
12 right -- is she officially an employee? Not today.
13 She's a subcontractor working with us,
14 volunteering, helping us get through where we have
15 to go.

16 **Q.** But she's still out there performing
17 services?

18 **A.** Yes.

19 **Q.** And the -- Debby and Ted Mercer. In
20 October of 2009 were they employed by Angel Valley?

21 **A.** They were not.

22 **Q.** They were on site in October 2009;
23 correct?

24 **A.** Correct.

25 **Q.** At some point in the past, was Ted Mercer

1 an employee of Angel Valley?

2 **A.** He was.

3 **Q.** The philosophy for the use of your
4 property that you have shared with the jury -- was
5 that a philosophy that you also shared with your
6 employees?

7 **A.** Yes.

8 **Q.** And how?

9 **A.** At meetings, interactions. When our
10 philosophy, mission, and vision was, basically, our
11 guidelines. When problems came up, we would look
12 and see what's going on and meet with somebody and
13 always wanted to go deeper into what's going on,
14 what's the underlying issue.

15 So it would be in written form, verbally,
16 interacting one on one, to see what's happening,
17 what's going on. And we would then have an
18 opportunity to share the philosophy. Rather than
19 blaming anyone else, take responsibility for what's
20 on your path and let's see how we can work with it.

21 **Q.** Did you share your ministry with your
22 employees as well?

23 **A.** Absolutely.

24 **Q.** I want to ask you some questions about
25 what happened on October 8th of 2009 that resulted

1 in the deaths of three people. First of all, in
2 the aftermath of that situation, were some lawsuits
3 filed against you?

4 **A.** Yes, they were.

5 **Q.** Do you recall how many -- how many
6 lawsuits? Was there one lawsuit?

7 **A.** There were a total of 10 individual
8 lawsuits that were filed.

9 **Q.** Do you know if those 10 were gathered
10 together in one lawsuit or more?

11 **A.** No. They are not. They're all 10
12 individual -- let's back up. There were 10
13 different people that sued us. A number of
14 different people went together and used one
15 attorney.

16 So we considered 10 different people
17 suing us. For us it was 10 different people.

18 **Q.** And were those people either participants
19 in Mr. Ray's sweat lodge ceremony or family members
20 of those who passed away?

21 **A.** Yes.

22 **Q.** Are those lawsuits still pending?

23 **A.** They are.

24 **Q.** Did you also file a lawsuit?

25 **A.** We did.

1 Q. And did you and your wife personally file
2 a lawsuit?

3 A. No. We filed on behalf of Angel Valley
4 Spiritual Retreat Center and Angel Valley
5 Ministries.

6 Q. Who did you file against?

7 A. James Ray.

8 Q. Personally?

9 A. Personally, corporately.

10 Q. And why did you file a lawsuit against
11 Mr. Ray?

12 A. We did so with reluctance. It took us
13 nine to ten months of thinking we would be able to
14 get back on our feet. And we were unable to. On
15 the day of the accident, the event where the people
16 died, we had another group coming in two days
17 later, actually coming in on -- and the group, on
18 the morning of Friday, Friday after the event, we
19 got a phone call, and the group cancelled.

20 We're cancelling. We're not coming where
21 people died. That has been a theme going on. That
22 particular group of people were booked to come in.
23 We had their money. And they said, we want our
24 money back. And we didn't have it.

25 So we thought the business would pick up,

1 people would understand what we did, what actually
2 happened. But it didn't.

3 And then after we got through till June,
4 July, August, we said, we need some help. Because
5 we're just not no way of being able to pay back the
6 money that we owed, the things that were created
7 that day, without some kind of outside support.

8 Q. What was your business like prior to
9 October 8th of 2009?

10 A. Prior to 2009, October, our business was
11 going steadily up. We were increasing about 20 to
12 25 percent per year. And on that day it's like the
13 plug got pulled. It went from this to --

14 So right today we're about 75 percent
15 down from when we were going into that event. So
16 we've suffered tremendous loss, reputation. And I
17 don't know how you ever get that back.

18 Q. Were you in bankruptcy prior to October
19 of 2009?

20 A. We were.

21 Q. When did you enter bankruptcy?

22 A. Entered bankruptcy in -- January 18th
23 of 2008.

24 Q. And are you still in bankruptcy?

25 A. We're actually in Chapter 11, which is

1 reorganizational bankruptcy. Yes. We were in
2 Chapter 11, and we were right on the verge, within
3 three months of being able to exit Chapter 11 with
4 a plan in place, with the income to support it, and
5 this events happened. And now it's been on hold
6 for the last 18 months.

7 Q. Is your lawsuit that you filed against
8 Mr. Ray and James Ray International still pending?

9 A. It is.

10 Q. Mr. Hamilton, have you ever participated
11 in a sweat lodge?

12 A. I have.

13 Q. How many times?

14 A. Probably three or four.

15 Q. Where did you participate in sweat
16 lodges?

17 MS. DO: Objection, Your Honor. Relevance.

18 THE COURT: Overruled.

19 You may answer that.

20 THE WITNESS: I would say there was two at
21 Angel Valley, one down by Oak Creek at the Center
22 For the New Age, and one in the city of Sedona.
23 That would be four.

24 Q. BY MS. POLK: When did you do the two
25 sweat lodges at Angel Valley?

1 A. Between 2003 and 2005.

2 Q. Will you explain the first one that you
3 did. What were the circumstances surrounding your
4 participation?

5 MS. DO: Objection. Relevance, 403, Your
6 Honor.

7 THE COURT: Sustained.

8 Q. BY MS. POLK: What structure at Angel
9 Valley did you do a sweat lodge in?

10 A. Small sweat lodge. It was about enough
11 to accommodate about 12 to 15 people.

12 Q. And who built that sweat lodge?

13 A. Two of the employees that we had working
14 at that time.

15 Q. The second sweat lodge that you did at
16 Angel Valley, what structure was it in?

17 MS. DO: Your Honor, same objection.

18 THE COURT: I need to see the attorneys.
19 (Sidebar conference.)

20 THE COURT: I've allowed just general
21 background kind of information before. But if this
22 is going into that area and we need to call it a
23 day, if there is no other place to go, then we need
24 to do that, Ms. Polk?

25 MS. POLK: Your Honor, I wasn't going to talk

1 about any problems. What I'm trying to establish
2 is this is the person under whose business the
3 structure used in October of 2009 was built.

4 And so I'm just establishing that he had
5 some familiarity with sweat lodge ceremonies, what
6 happens in them. And ultimately, then, there is
7 going to be one that was constructed. And I wasn't
8 going to talk about any problems.

9 THE COURT: That's what I wanted to know.

10 Ms. Do, go ahead.

11 MS. DO: I understand. I think the danger of
12 what it implies is there. And that's my concern.
13 And this witness has no personal knowledge of any
14 of the construction of the sweat lodges from 2005
15 to 2009.

16 We interviewed him on April 6th with
17 counsel present. He stated he was not physically
18 present for the erection or the take down of any of
19 the sweat lodge structures, including the ones used
20 by my client.

21 So I see no relevance. There is no
22 foundation. I am not sure what the background
23 would be relevant to if not to make a comparison.

24 THE COURT: Well, sometimes there is just
25 general information. There is questions about who

1 is really responsible. That's come to the fore
2 here rather prominently, just the kind of general
3 questions.

4 There is just -- it's not at all
5 prejudicial and has some marginal relevance. I'm
6 going to let it in as long as Ms. Polk does not go
7 into that other area. We've dealt with that.
8 Anyway, getting into any kind of comparisons or
9 something like that.

10 You're saying you're not going to do
11 that.

12 MS. POLK: Right. I wasn't going to do
13 comparisons.

14 Now, is the Court going to allow him to
15 talk history of the sweat lodge construction
16 through the years without talking about problems?

17 THE COURT: Well, what is his involvement in
18 the constructing sweats lodges, sure. Just cannot
19 be any comparisons or any implication that somehow
20 something was done wrong. You know?

21 MS. DO: Thank you.

22 (End of sidebar conference.)

23 THE COURT: You may continue.

24 Q. BY MS. POLK: I can't remember if you
25 answered the question about the second ceremony

1 that you participated in in Angel Valley. What
2 structure was that in?

3 **A. The same as the first one.**

4 Q. How long was that structure -- you talked
5 about 2003 and 2005?

6 **A. Well, the one that we -- the two I did at
7 Angel Valley were within that same year period.
8 The other ones I did off site were done -- very
9 first one I did was probably 1997, '98. The other
10 one I did was in 2004, 2005, off site. I did two
11 off site, two on site.**

12 Q. For the sweat lodge ceremonies that you
13 did on site, do you know who constructed the sweat
14 lodges?

15 **A. Yes. Don Castleman, our one builder, and
16 Debra Kurwick, our housekeeper at that time.**

17 Q. Did you have any involvement in the
18 actual construction of those early sweat lodges?

19 **A. No.**

20 Q. How about the materials that were used to
21 cover the frame for the sweat lodge?

22 MS. DO: Objection, Your Honor. Ask for
23 foundation.

24 THE COURT: If you could you answer that --
25 called for yes or no response. If you can answer

1 that, you may.

2 THE WITNESS: Yes.

3 Q. BY MS. POLK: And what was your
4 involvement in the covers that were used for the
5 sweat lodges in the early days?

6 **A. Only being aware that my wife was getting
7 them. Between her and the people that were putting
8 it in, we didn't buy any materials back then. It
9 was -- you know -- do you have any drapes? Do you
10 have any blankets? Not blankets. Sleeping bags.
11 That's how they were built.**

12 MS. DO: Your Honor, I renew my objection
13 based on lack of personal knowledge.

14 THE COURT: Overruled.

15 Q. BY MS. POLK: Do you recall whether you
16 used any tarps for the sweat lodges that you
17 participated in in Angel Valley in the early days?

18 **A. I don't recall.**

19 Q. Mr. Hamilton, did you ever research the
20 issue of using tarps for a sweat lodge.

21 **A. No, I did not.**

22 Q. Do you know Mr. James Ray, the man
23 sitting here at the table?

24 **A. I do.**

25 Q. When did you meet him?

1 **A. 2003.**
 2 **Q.** Will you tell the jury the first year
 3 that Mr. Ray came to Angel Valley.
 4 **A. 2003.**
 5 **Q.** Was it part of a seminar then?
 6 **A. It was the sweat lodge and Vision Quest**
 7 **part of his seminar that he did at Angel Valley.**
 8 **Q.** Do you recall where -- did the
 9 participants for that first event in 2003 spend the
 10 night at Angel Valley?
 11 **A. They spent the night on the land. Yes.**
 12 **Q.** Was that for the Vision Quest?
 13 **A. Yes.**
 14 **Q.** Apart from the Vision Quest, did they
 15 spend the night at Angel Valley?
 16 **A. No.**
 17 **Q.** Do you recall where they stayed?
 18 **A. Enchantment.**
 19 **Q.** In 2004 did Mr. Ray come back?
 20 **A. He did.**
 21 **Q.** Do you recall whether or not his group
 22 stayed at Angel Valley that year?
 23 **A. They did.**
 24 **Q.** Tell the jury, then, the years that
 25 Mr. Ray came back with a group of participants.

1 **A. He actually did the full Spiritual**
 2 **Warrior Retreat at Angel Valley in 2004, 2005,**
 3 **2006, 2007, 2008, and 2009.**
 4 **Q.** Did you negotiate a contract with Mr. Ray
 5 for each of those events?
 6 **A. No.**
 7 **Q.** Which ones did you not?
 8 **A. None.**
 9 **Q.** Did Angel Valley have a contract with
 10 Mr. Ray at any point?
 11 **A. With JRI.**
 12 **Q.** Oh. I'm sorry. With his company?
 13 **A. Yes. I did those.**
 14 **Q.** For each year?
 15 **A. Yes.**
 16 **Q.** Who did you negotiate with to negotiate
 17 contracts with James Ray International?
 18 **A. Different people. At the very -- last**
 19 **one it would have been Megan. But Megan was the**
 20 **main person for the last number of years that I was**
 21 **involved in the retreat center that I would have**
 22 **negotiated it.**
 23 **Q.** Do you recall Megan's last name?
 24 **A. Fredrickson.**
 25 **Q.** And was it you, Mr. Hamilton, for each of

1 the years, 2004 to 2009, that negotiated the
 2 contract with James Ray International?
 3 **A. No.**
 4 **Q.** Who else would have participated?
 5 **A. Gary Palisch.**
 6 **Q.** What year did Gary Palisch participate?
 7 **A. He came on -- it would have been 2007**
 8 **and 2008.**
 9 **Q.** Did you hire Mr. Palisch?
 10 **A. We did.**
 11 **Q.** What was his role at Angel Valley?
 12 **A. General manager.**
 13 **Q.** For what years?
 14 **A. It would have been from about the time**
 15 **the sweat lodge -- it was in 2007 through**
 16 **December 2008.**
 17 **Q.** Were you on the property when Mr. Palisch
 18 was your general manager?
 19 **A. I was.**
 20 **Q.** Why did you hire a general manager?
 21 **A. As we entered into Chapter 11, it was**
 22 **inappropriate for me to continue running that**
 23 **aspect of the business. So I said, no. I needed**
 24 **time to focus on the reorganization and the**
 25 **ministry but not the physical retreat center. That**

1 **was why we said, Gary, can you take that over?**
 2 **Q.** What duties did Mr. Palisch take over
 3 then?
 4 **A. Every day-to-day activity for the retreat**
 5 **center, from, basically, September of 2007 through**
 6 **December of 2008.**
 7 **Q.** I'm going to hand you what's been marked
 8 as Exhibit 895. Take a moment to look at that,
 9 please.
 10 **A. Okay.**
 11 **Q.** Do you recognize that document?
 12 **A. I do.**
 13 **Q.** Have you seen that document before?
 14 **A. I do.**
 15 **Q.** And what is it?
 16 **A. It's the contract that was actually**
 17 **negotiated between Gary Palisch and JRI**
 18 **on January 31st of 2008.**
 19 MS. POLK: Your Honor, I move for the
 20 admission of Exhibit 895. It might be 885.
 21 MS. DO: It's 885. No objection, Your Honor.
 22 THE COURT: Thank you.
 23 885 is admitted.
 24 (Exhibit 885 admitted.)
 25 **Q.** BY MS. POLK: Were you familiar with the

1 terms of this particular contract when it was
2 negotiated?

3 **A. No.**

4 **Q. Are you familiar with the terms now?**

5 **A. I am.**

6 **Q. I'm going to put it up on the overhead.**

7 And I'm going to go to the second page. Do you see
8 where it says, total contract price. Total
9 contracted price as of January 30th, 2008,
10 \$107,200?

11 **A. I do.**

12 **Q. Do you know what that figure represents?**

13 **A. It represented the per-person price based**
14 **on the number of participants that were expected to**
15 **come and that they guaranteed there would be 60**
16 **people there. And each person would pay a certain**
17 **amount of money, which is on the reverse side of**
18 **that. It was a contract for what Angel Valley**
19 **would be providing.**

20 **Q. I'll flip to the first page and ask you**
21 **if that reflects what you just said about the**
22 **per-person fee?**

23 **A. It does.**

24 **Q. Tell the jury what it was.**

25 **A. The Dream Team members, based on the**

1 contract, would be paying \$1,400 each for room,
2 board, and whatever we provided for them. The 60
3 individual Spiritual Warriors would be paying
4 \$1,600 each to -- for the total \$96,000.

5 **Q. And what did that cover?**

6 **A. Everything that Angel Valley was**
7 **providing -- the food, the snacks, the Vision Quest**
8 **space, the physical structure of the lodge,**
9 **everything that Angel Valley -- meeting spaces,**
10 **beds, any special things that they wanted, anything**
11 **that Angel Valley was going to provide. And it**
12 **gives a little bit of a detail up further. Meals,**
13 **et cetera, et cetera.**

14 **Q. Who was to pay you that figure of**
15 **\$107,200?**

16 **A. Based on this contract, it was set out**
17 **originally to be James Ray, JRI.**

18 **Q. Did that change?**

19 **A. It did.**

20 **Q. How did it change?**

21 **A. Somewhere -- I want to say it was**
22 **in 2008 -- the arrangement -- might have been 2007.**
23 **But right in that 2007, 2008. The arrangement**
24 **changed in that the -- Angel Valley agreed to take**
25 **the reservations one by one as the people signed**

1 **up. Prior to that our contract was directly with a**
2 **facilitator, in this case, JRI.**

3 **They would gather the money. They would**
4 **do the booking. They would do the credit card**
5 **processing. All we would do is get checks based on**
6 **this arrangement. But that changed that Angel**
7 **Valley then took on the responsibility of people**
8 **calling, answering their questions on what's**
9 **included in that price, from our perspective, what**
10 **they're getting.**

11 **And that's what mainly shifted. So Angel**
12 **Valley started collecting the money. I want to say**
13 **it was in 2008, and for sure 2009. People booked**
14 **directly with us for the lodging and the Angel**
15 **Valley portion of it.**

16 **Q. And this contract is dated January 30th**
17 **of 2008. What years did this contract cover?**

18 **A. 2009.**

19 **Q. And why is that?**

20 **A. Generally speaking, when James Ray would**
21 **be there, they would know at the end of a given**
22 **year that they wanted to come back the following**
23 **year. And in order to secure the dates, we would**
24 **enter into a contract in one year that would take**
25 **the preceding year.**

1 **And in this case there was a previous**
2 **contract to this that I was involved in that**
3 **actually was renegotiated with this contract**
4 **for 2009.**

5 **Q. And what does that mean what you just**
6 **said, it was renegotiated?**

7 **A. We had a contract at the end of 2007**
8 **that -- let's say consisted of 2008 and 2009, the**
9 **terms for two different years. Because they were**
10 **happy with Angel Valley and we were happy at that**
11 **moment where they were at.**

12 **They said, let's book out for 2008**
13 **and 2009. We did that. But when Gary got involved**
14 **in 2007, I honestly do not know how this -- I know**
15 **nothing about how this was actually created other**
16 **than Gary did it.**

17 **Q. Ultimately for the Spiritual Warrior**
18 **seminar that was held at Angel Valley in October**
19 **of 2009, did James Ray International pay any money**
20 **to Angel Valley?**

21 **A. They did in January right around the same**
22 **day. January of 2008 there was a check given by**
23 **JRI to Angel Valley for about 25,000 and some-odd**
24 **dollars.**

25 **Q. On this contract?**

1 **A. Yes.**
 2 **Q.** At the time who was going to pay for the
 3 room and board for each of the participants?
 4 **A. Each person. Each participant was going**
 5 **to pay it to Angel Valley.**
 6 **Q.** Why were you collecting any money from
 7 James Ray International?
 8 **A. They no longer wanted to deal with the**
 9 **room part of it, the lodging part of it. They**
 10 **wanted to strictly deal with their warrior program.**
 11 **And ours as a facilities, they wanted us to deal**
 12 **directly with the participants.**
 13 **Q.** Once you started dealing directly with
 14 the participants to collect money for room and
 15 board, did you collect any money from James Ray
 16 International?
 17 **A. No.**
 18 **Q.** And so I'm not understanding. You said
 19 in January you collected some money from James Ray
 20 International for the 2009 event?
 21 **A. You said -- wait. Can you rephrase it?**
 22 **I'm confused.**
 23 **Q.** For the Spiritual Warrior event that was
 24 held at Angel Valley in October of 2009.
 25 **A. Okay.**

1 **Q.** Did James Ray International pay any money
 2 to Angel Valley?
 3 **A. Yes.**
 4 **Q.** And how come?
 5 **A. Based on some negotiated arrangements**
 6 **that Gary and Megan arranged, there was a 25,000**
 7 **some-odd dollar check that came from JRI to Angel**
 8 **Valley.**
 9 **Q.** Ultimately, then, did you, Angel Valley,
 10 collect that \$25,000 from James Ray International
 11 plus \$107,200 from the participants?
 12 **A. No.**
 13 **Q.** Explain that to the jury.
 14 **A. The contract was for \$107,200, which we**
 15 **always knew -- at the beginning of any retreat, you**
 16 **don't know how many people you're going to have**
 17 **actually show up. And in this particular case,**
 18 **they were saying we'll have at least 60 people**
 19 **there. So Gary typed up a contract that,**
 20 **basically, said 60 people are guaranteeing to be**
 21 **there.**
 22 **Well, there were not a total of 60**
 23 **participants that actually showed up. The actual**
 24 **amount of the -- see here -- was not the end result**
 25 **of 2009 because the number of people they**

1 **guaranteed did not show up.**
 2 **Q.** Do you recall how many showed up?
 3 **A. I'm going to say 50, 51, maybe. My wife**
 4 **has those exact numbers in her head.**
 5 **Q.** And then this contract payment schedule
 6 that we see that was negotiated in 2008 -- did that
 7 actually ultimately apply?
 8 **A. No.**
 9 **Q.** And why not?
 10 **A. Because the people were paying us direct.**
 11 **Q.** Did you ever negotiate a new written
 12 instrument when the terms of the contract changed?
 13 Did you ever draw up a new contract for 2009?
 14 **A. No. This was the one we went with.**
 15 **Q.** This is the one. Do you recall -- you
 16 said your wife would know. Do you recall what the
 17 dates for Mr. Ray's Spiritual Warrior seminar were?
 18 **A. October 1st to the 9th.**
 19 **Q.** And is that what's reflected on this
 20 contract?
 21 **A. It is.**
 22 **Q.** Prior to October of 2009, had you
 23 negotiated a contract for 2010 with James Ray
 24 International?
 25 **A. There was talk about a 2010 contract back**

1 **in February, March, and then it never went any**
 2 **further.**
 3 **Q.** In October of 2009 was there plans --
 4 were there plans in place for James Ray
 5 International to do another event at Angel Valley?
 6 **A. No.**
 7 MS. DO: Objection. Relevance.
 8 Withdrawn, Your Honor.
 9 THE COURT: Overruled.
 10 Answer stands.
 11 **Q.** BY MS. POLK: For the events at Angel
 12 Valley by James Ray International, did Angel Valley
 13 have any role in planning the actual events?
 14 **A. No.**
 15 **Q.** What about the Vision Quest?
 16 **A. We picked the actual sites but not the**
 17 **actual event timing or anything like that.**
 18 **Q.** What guides did you use to pick the
 19 actual sites?
 20 **A. Amayra will give you that answer. I**
 21 **don't know. I did not pick them.**
 22 **Q.** Do you know whether the sites used were
 23 on your property?
 24 **A. Some were. Some were not.**
 25 **Q.** And for the ones that were not on your

1 property, what property were they on?
 2 **A. The forest service.**
 3 **Q.** Do you know whether that required special
 4 permission?
 5 **A. At that moment in time, no one said it**
 6 **did. We did not ask for special permission for it.**
 7 **Q.** Was it like camping on the forest?
 8 **A. It was like walking on the forest and**
 9 **taking a little spot of land and sitting down for a**
 10 **period of time.**
 11 **Q.** Did James Ray International provide to
 12 you a schedule of the events for the Spiritual
 13 Warrior seminar that they held there?
 14 **A. They did.**
 15 **Q.** I'm going to show you what's marked as
 16 Exhibit 253. Do you recognize that?
 17 **A. I do.**
 18 **Q.** And how do you recognize that?
 19 **A. It's what they would always provide -- a**
 20 **syntax of what's happening, almost down to the**
 21 **minute, on what events were going on.**
 22 **Q.** And what did Angel Valley then do with
 23 the syntax that you got?
 24 **A. We would look at what we needed to do.**
 25 **If it was meal time, if it was going to the Vision**

1 **Quest, we would make sure that we coordinated**
 2 **whatever they needed, that we were there to**
 3 **facilitate their timing.**
 4 **Q.** Did Angel Valley draw up these syntax?
 5 **A. No.**
 6 **Q.** Who did?
 7 **A. JRI.**
 8 **Q.** I'm going to put up on the overhead
 9 Exhibit 146 and ask if you recognize what that is?
 10 **A. Sweat lodge.**
 11 **Q.** Do you recognize it to be the sweat lodge
 12 used by Mr. Ray in October of 2009?
 13 **A. I would say yes.**
 14 **Q.** The site that that sweat lodge is located
 15 at -- when did you start -- when did Angel Valley
 16 start putting sweat lodges at that particular site?
 17 **A. I'd say 2005.**
 18 **Q.** And prior to that did you have a sweat
 19 lodge at a different site?
 20 **A. We did.**
 21 **Q.** Where was the different site?
 22 **A. If you have a map, I can show you.**
 23 **Q.** I do. I'm putting up on the overhead
 24 Exhibit 140. Do you recognize this?
 25 **A. I do.**

1 **Q.** Does this show the site for the sweat
 2 lodge?
 3 **A. It does. Where it says, fire pit, over**
 4 **on the far left, that was an area that was -- that**
 5 **I talked about earlier for ceremonial fires. We**
 6 **actually had a sweat lodge there. There was a --**
 7 **in 2003 there were two sweat lodges there for an**
 8 **earth dance that was going on. That was the area**
 9 **we did it until the flood came through in 2004 and**
 10 **2005 and washed the whole thing out.**
 11 **Q.** What did that flood wash out that year?
 12 **A. All -- the two sweat lodges that were**
 13 **physically there. Moved the rocks around,**
 14 **basically, undid the whole area.**
 15 **Q.** Were the coverings that ultimately were
 16 used in 2009 washed away in that flood?
 17 **A. No.**
 18 **Q.** What was washed away in terms of the
 19 sweat lodge itself?
 20 **A. Everything was washed away. Blankets**
 21 **that we had there, except the -- the brown large**
 22 **tarp that was caught within trees, that had torn**
 23 **one little corner. That was the only thing that**
 24 **survived.**
 25 **Q.** Did you have that -- we'll talk about

1 that large brown tarp. Did you have it back in --
 2 do you remember what year you first started using
 3 that large brown tarp?
 4 **A. I think it was 2005, but maybe it was**
 5 **earlier. I'm not sure.**
 6 **Q.** I'll ask you some more questions about
 7 that. After the flood where did you move the sweat
 8 lodge site to?
 9 And where has that sweat lodge ceremony
 10 been held ever since?
 11 **A. Right there.**
 12 **Q.** The jury has heard from other witnesses
 13 about the construction of the frame and then the
 14 putting of covers and the tarps on the sweat lodge.
 15 What I want to ask you first of all, Mr. Hamilton,
 16 is about the earlier sweat lodges. Once you built
 17 a frame, did it stay in place?
 18 **A. It normally -- ours would stay in place**
 19 **for normally a year or until they fell apart. If**
 20 **they were -- some of the earlier ones we built were**
 21 **so, let's call it "rickety," that within three,**
 22 **four month they were actually -- we did not --**
 23 **sweat lodges were not our main thing at Angel**
 24 **Valley. They were to accommodate the facilitators**
 25 **that came.**

1 **So in the earlier years, 2003, 2004, and**
 2 **into maybe 2005, we had employees that loved doing**
 3 **them. So they were more done there that I was not**
 4 **part of. After that -- actually, until that they**
 5 **would build them. And afterward we would have to**
 6 **hire someone to come in and build the actual lodge.**

7 **Q.** Do you recall what years you hired
 8 someone to come in to build the lodges?

9 **A.** The last person I hired myself would have
 10 **been 2007. 2006 we had some of our employees that**
 11 **were there at the time. They built that. I don't**
 12 **know about 2005.**

13 **Q.** Was a new structure built in 2005?

14 **A.** Yes, it was.

15 **Q.** Was a new structure build in 2006?

16 **A.** Yes.

17 **Q.** Was a new structure built in 2007?

18 **A.** Yes.

19 **Q.** How about 2008?

20 **A.** Yes.

21 **Q.** Who did you hire in 2007 to build the
 22 structure?

23 **A.** I met a friend over in Prescott at
 24 **In-N-Out Burger. We got talking, and I said I**
 25 **needed a sweat lodge built. He said, I can do**

1 **that. I don't remember the name. He was a Native**
 2 **American who came over and built the lodge for us.**

3 **Q.** How long did that lodge built in 2007
 4 last for?

5 **A.** Basically, through the winter and part
 6 way through the summer.

7 **Q.** Do you know whether Mr. Ray conducted a
 8 ceremony inside that structure?

9 **A.** Yes.

10 **Q.** In 2008 was a new structure built?

11 **A.** Yes.

12 **Q.** Why?

13 **A.** Officially, as far as I knew, the earlier
 14 lodge that was built in 2007 had too much room
 15 height. If you look at this, it's lower. The one
 16 in 2007 would have been a higher lodge, more room
 17 on the inside. And the comment was from JRI that
 18 it doesn't get hot enough --

19 MS. DO: Objection, Your Honor. Hearsay and
 20 foundation.

21 THE COURT: Sustained as to foundation.

22 **Q.** BY MS. POLK: For the 2007 sweat lodge
 23 that you're talking about, did you have
 24 conversations with anybody about why it was
 25 inadequate? Did you personally?

1 **A.** No.

2 **Q.** Who did?

3 **A.** My wife.

4 **Q.** Your wife, Amayra, did?

5 **A.** Yes.

6 **Q.** As a result of those -- were you present
 7 when your wife had conversations with anybody?

8 **A.** No.

9 **Q.** So as a result of a conversation that
 10 your wife had with somebody about the sweat lodge
 11 in 2007, was a new sweat lodge was built for 2008?

12 **A.** It was.

13 **Q.** Who ordered or took charge of making sure
 14 that a new sweat lodge was built for 2008?

15 **A.** Gary Palisch.

16 **Q.** At whose direction?

17 **A.** Gary Palisch.

18 **Q.** Did he consult with you?

19 **A.** Not with me.

20 **Q.** Were you involved at all in the
 21 construction of the new sweat lodge for 2008?

22 **A.** No.

23 **Q.** Did you know that it was being built?

24 **A.** I was aware of it. Yes.

25 **Q.** Did you pay for it?

1 **A.** Angel Valley Retreat Center paid for it.

2 **Q.** Were you involved in the paying -- in the
 3 payment at all?

4 **A.** No.

5 **Q.** Do you know what Angel Valley paid for
 6 it?

7 **A.** I have the records, but I don't -- right
 8 now I can't give a definitive amount. I saw the
 9 checks, but I don't remember them, the amounts.

10 **Q.** Did you visit the site when it was being
 11 constructed?

12 **A.** I went by one time.

13 **Q.** Do you recall when that was?

14 **A.** When Ted and Debby were getting willow
 15 branches off their pickup truck.

16 **Q.** And do you recall what month it was built
 17 in?

18 **A.** I want to say September of 2008.

19 **Q.** I'm going to put up on the overhead
 20 Exhibit 247 and ask if you recognize that?

21 **A.** I recognize it's our property.

22 **Q.** Have you ever seen this photograph
 23 before?

24 **A.** No.

25 **Q.** Do you have any reason to doubt that it

1 is a sweat lodge on your property?

2 **A. No. I just don't know when it was.**

3 **Q.** You don't know when this particular
4 photograph was taken?

5 **A. No.**

6 **Q.** I'm going to ask you about the pile of
7 wood that's in the front. Do you recognize that
8 wood?

9 **A. Yes.**

10 **Q.** What do you recognize that wood to be?

11 **A. The same wood as we have here, the cedar**
12 **logs.**

13 **Q.** And how do you recognize it -- I'm going
14 to bring you the photograph itself.

15 **A. I can see the tongue and grooves in the**
16 **logs. It's the same type of wood, the same wood.**

17 **Q.** I'm going to put it back up and ask you
18 to show the jury the tongue and groove that you
19 see.

20 **A. There are the tongues. And there are**
21 **bottom -- the second line is actually the bottom of**
22 **the log. Tongue is the top. So in other words,**
23 **the one to the left is the one that would fit on**
24 **top of the one beneath it. The log being upright,**
25 **the one with tongue is up.**

1 **Q.** Were you present in 2008 when the sweat
2 lodge was built?

3 **A. No.**

4 **Q.** You said you went by the site at one
5 point?

6 **A. While they were planting -- while they**
7 **were putting the branches in the ground, I drove by**
8 **in the golf cart. I saw Ted and Debby with**
9 **branches all over the back of their truck.**

10 **Q.** I'm going to put up on the overhead
11 Exhibit 246. Do you recognize what's in that
12 photograph?

13 **A. I recognize what appears to be -- maybe**
14 **it's a sweat lodge.**

15 **Q.** Would you have any reason to doubt that
16 this is the construction of the sweat lodge
17 in 2008?

18 **A. No, I would not.**

19 **Q.** Do you recognize the man in that picture?

20 **A. It could either be Rotillo or Ted. I**
21 **don't know from the back.**

22 **Q.** The -- again, that pile of wood. It's
23 your testimony it's the same cedar wood that's in
24 front of you?

25 **A. Yes.**

1 **Q.** Would you have any reason to disagree
2 that that same cedar wood, then, was then used
3 in 2008 for the sweat lodge ceremony?

4 **A. No.**

5 **Q.** Now, I want to direct your attention to
6 the pile of wood that's in the background. And,
7 again, if you want me to bring you the
8 photograph --

9 **A. No. I can see here.**

10 **Q.** Tell the jury if you know what this wood
11 is.

12 **A. Well, the way it looks here, there is a**
13 **lot of the logs, again, that were over in the pile.**
14 **Looks like it might be some other round logs from**
15 **the trees that were there. But it does look like a**
16 **lot of the logs that were here.**

17 **Q.** I'm going to put up on the overhead
18 Exhibit 145 and ask if you recognize the logs?
19 This is October of 2009 from Mr. Ray's sweat lodge
20 ceremony. Do you recognize those logs?

21 **A. Yes.**

22 **Q.** What do you recognize them to be?

23 **A. Same logs as we've been talking about,**
24 **the cedar logs, the manufactured milled logs.**

25 **Q.** Do you know who designed the sweat lodge,

1 the frame that was built in 2008?

2 **A. I do.**

3 **Q.** Who was that?

4 **A. David Singing Bear.**

5 **Q.** Did you have any contact with David
6 Singing Bear?

7 **A. No.**

8 **Q.** Have you ever had contact with him?

9 **A. No. I made one phone call to him, and I**
10 **never talked to him, never met the man.**

11 **Q.** Were you aware that he was hired to
12 design the sweat lodge in 2008?

13 **A. After the fact, yes.**

14 **Q.** And who hired him? Do you know?

15 **A. Gary Palisch.**

16 **Q.** I'm going to put up on the overhead
17 Exhibit No. 145. And I'm going to ask you some
18 questions about the coverings of the sweat lodge.
19 This is October of 2009 from Mr. Ray's event. Can
20 you tell the jury what the cover is on the outside?

21 If you want me to bring you the photograph, I can.

22 **A. That would be -- it looks like it's the**
23 **brown rubberized tarp that would be over the whole**
24 **thing.**

25 **Q.** I'll put up on the overhead Exhibit 247,

1 which is from September of 2008. Is that a better
 2 view?
 3 **A. Yes.**
 4 **Q.** Is that the same cover, to your
 5 knowledge --
 6 **A. Yes.**
 7 **Q.** -- as 2009?
 8 **A. Yes.**
 9 **Q.** Did you have any role, Mr. Hamilton, in
 10 getting that big, brown cover?
 11 **A. No.**
 12 **Q.** Who did?
 13 **A. Amayra, my wife.**
 14 **Q.** Your wife did. Do you know what year?
 15 **A. She will know. I do not.**
 16 **Q.** And do you know what years that cover was
 17 used to cover the sweat lodge?
 18 **A. I do not.**
 19 **Q.** I'm going to ask you about the layers of
 20 material that were underneath that brown cover.
 21 **A. Okay.**
 22 **Q.** Do you have any knowledge of those
 23 materials?
 24 **A. I do.**
 25 **Q.** How do you have knowledge of those

1 materials?
 2 **A. The blankets -- some of blankets I would**
 3 **have bought.**
 4 **Q.** When did you buy blankets?
 5 **A. From time to time when they said, oh. We**
 6 **don't have blankets, we would wash them from time**
 7 **to time, or at least my wife would. And from time**
 8 **to time they would just come apart. And they would**
 9 **say, we need more blankets. And I would go and get**
 10 **more blankets.**
 11 **Q.** Do you recall where you would purchase
 12 blankets from?
 13 **A. The Costco started having moving**
 14 **blankets, and I bought a number of them from**
 15 **Costco.**
 16 **Q.** Tell the jury what a moving blanket is.
 17 **A. When you move from one location to**
 18 **another and you have furniture, you normally want**
 19 **to put something around it. Many times you take**
 20 **your own curtains that you're not using or old**
 21 **blankets. Depends on what type of move you're**
 22 **doing.**
 23 **When you go to a moving company, you can**
 24 **buy or rent blankets that are a thick, quilted**
 25 **material that allows them to get hit but yet not**

1 **dinged up and no scratches on them. That's what a**
 2 **moving blanket is.**
 3 **Q.** Do you recall whether the moving blankets
 4 had writing on them?
 5 **A. I'm not sure.**
 6 **Q.** Did you ever open up the packages with
 7 the moving blankets?
 8 **A. Not that I'm aware of. I would put the**
 9 **blankets in on the table in the back. The ones**
 10 **from Costco were in a bag. And I know I bought a**
 11 **couple one year at U-Haul. They are the only two**
 12 **places I bought them. U-Haul may have a U-Haul**
 13 **emblem on them. I don't know.**
 14 **Q.** I'm going to put up on the overhead
 15 Exhibit 245. I can bring it to you if you want me
 16 to. Do you recognize the material showing there?
 17 **A. I do.**
 18 **Q.** And what do you recognize it to be?
 19 **A. The blue blankets would be the ones that**
 20 **I got from U-Haul.**
 21 **Q.** And can you point them out to the jury?
 22 **A. Yes.**
 23 **Q.** And do you know -- there appear to be
 24 lines all through them. Do you know what that is?
 25 **A. Looks like writing.**

1 **Q.** Why did you choose moving blankets?
 2 **A. They were thicker, and they were a -- we**
 3 **didn't have actually blankets that we weren't using**
 4 **anymore. What we learned early on is -- we had one**
 5 **Native American that said, oh. Just bring**
 6 **anything. If you have curtains, used blankets,**
 7 **sleeping bags. We had gone through all the ones**
 8 **that we had, and we needed something to cover it.**
 9 **Q.** How frequently, Mr. Hamilton, did you
 10 acquire additional coverings for the sweat lodges
 11 over the years?
 12 **A. Very rarely. Probably a total of maybe**
 13 **two times the entire time I was there.**
 14 **Q.** Do you recall the last time you acquired
 15 additional blankets prior to October of 2009?
 16 **A. It would have been somewhere in 2009, the**
 17 **beginning of 2009. I didn't buy anything in 2007**
 18 **or 2008. And 2009 was when I found certain things.**
 19 **I became in charge of the retreat center again, and**
 20 **then I understood what we needed to do and what was**
 21 **missing and damaged.**
 22 **Q.** Did you also acquire tarps for use on the
 23 sweat lodge?
 24 **A. I did.**
 25 **Q.** Where did you acquire tarps from?

1 A. **Costco.**
 2 Q. How frequently did you acquire tarps?
 3 A. **We would acquire tarps probably every**
 4 **three to four months. We used them to -- our main**
 5 **use was to cover the lumber outside that was**
 6 **stored. And we would have them -- I would take**
 7 **them to the -- what we call the "shop" or the**
 8 **"utility building" and put them in there in the**
 9 **plastic. They would be in the corner until**
 10 **somebody needed them. Then they would come and get**
 11 **them.**
 12 Q. Did you ever put new tarps in the pump
 13 house for use on the sweat lodge?
 14 A. **I don't remember actually driving there.**
 15 **I don't remember that. No. I would put them --**
 16 Q. Could you have?
 17 A. **I could have. Yes.**
 18 Q. Did you store tarps at more than one
 19 place at Angel Valley?
 20 A. **Only two places.**
 21 Q. What were the two places?
 22 A. **The shop, the utility building, I was**
 23 **talking about, and the pump house.**
 24 Q. I've just put up on the overhead
 25 Exhibit 140. Will you show the jury where the

1 utility room is.
 2 A. **Right there.**
 3 Q. And how big was that utility room?
 4 A. **The building is approximately 30 by 40.**
 5 Q. What else did you store in the utility
 6 room?
 7 A. **Tools and carpeting, bedding when we're**
 8 **not -- mattresses, box springs. Became just kind**
 9 **of a storage building. Golf carts would be stored**
 10 **in one part of it. The other part was walled off,**
 11 **would have more furniture, things that we only used**
 12 **sporadically.**
 13 Q. I'm going to put up on the overhead
 14 Exhibit 238, which is one of -- it's a sweat lodge
 15 at Angel Valley. Do you recognize that?
 16 A. **Yes.**
 17 Q. Do you know which ceremony this
 18 photograph is taken after?
 19 A. **I'm guessing it would be 2008.**
 20 Q. Were you familiar, Mr. Hamilton, with the
 21 layering of the materials for the sweat lodge?
 22 A. **I'm familiar that there was a layering**
 23 **but not exactly what arrangement they went.**
 24 Q. Did you ever see a memo about how to
 25 layer the coverings?

1 A. **I did not.**
 2 Q. Let me show you what's marked as
 3 Exhibit 793. Just take a moment to look at that.
 4 Do you recognize that?
 5 A. **Yes.**
 6 Q. Have you seen that before today here in
 7 court?
 8 A. **I saw it back then, I'm guessing. It**
 9 **came to me.**
 10 Q. Do you remember it?
 11 A. **Not really. No.**
 12 Q. You don't remember it today?
 13 A. **No.**
 14 Q. I'm going to put it up on the overhead.
 15 And you said it came to you. Why do you say that?
 16 A. **Well, that was right at the time that I**
 17 **stepped back from the day-to-day operation of Angel**
 18 **Valley Spiritual Retreat Center. And Gary, I'm**
 19 **believing -- he went out of town different times.**
 20 **And it was getting -- my guess is he emailed it to**
 21 **me, for me to give to Ted and Debby is the best**
 22 **guess I have. I was not actively involved in doing**
 23 **any of it.**
 24 Q. When did Gary Palisch leave Angel Valley?
 25 A. **Around December 15th of 2008.**

1 Q. Mr. Hamilton, I want to give you another
 2 piece of physical evidence to look at. I'll have
 3 the detective help me.
 4 Detective, what exhibit number is that?
 5 MR. DISKIN: This is No. 900.
 6 Q. BY MS. POLK: I don't want you to pull it
 7 out yet, Mr. Hamilton. Just look at Exhibit 900.
 8 A. **Okay.**
 9 Q. I'm going to ask if you recognize what's
 10 in that tin?
 11 A. **The first piece I see is the brown tarp.**
 12 Q. Are you familiar with what's in that tin?
 13 A. **No.**
 14 Q. Do you know what it is?
 15 A. **I'm guessing the covering.**
 16 Q. Do you recognize what you're looking at?
 17 A. **Yes. That's the brown covering that's on**
 18 **top of the sweat lodge.**
 19 Q. Go ahead and dig in and see if you
 20 recognize what else is there.
 21 A. **Should I pull it out?**
 22 Q. I want you just to look at it first. Do
 23 you recognize all that?
 24 A. **I do.**
 25 MS. POLK: Your Honor, I move for the

1 admission --
 2 **Q.** I'm sorry. What do you recognize all
 3 that to be?
 4 **A.** **The covering.**
 5 **Q.** Of what?
 6 **A.** **Of what went over the sweat lodge.**
 7 MS. POLK: Your Honor, I move for the
 8 admission of Exhibit 900.
 9 MS. DO: No objection.
 10 THE COURT: 900 is admitted, the photograph,
 11 for the purposes of the record.
 12 (Exhibit 900 admitted.)
 13 **Q.** BY MS. POLK: You can pull that out and
 14 spread it out in front of you.
 15 On October 9th, 2009, Mr. Hamilton, were
 16 you aware that Detective Diskin was at the area of
 17 the sweat lodge?
 18 **A.** **I was.**
 19 **Q.** And were you aware that he took samples
 20 of the materials itself?
 21 **A.** **I am. Yes.**
 22 **Q.** And as you look at what's in front of
 23 you, do you recognize the various materials that
 24 are there?
 25 **A.** **Yes.**

1 **Q.** And starting with the inner layer, what
 2 do you recognize?
 3 **A.** **Should I pull them apart?**
 4 **Q.** Let's leave them intact. You can peel
 5 them back a little bit.
 6 **A.** **Moving blanket, regular blanket, canvass**
 7 **tarp, canvass tarp, a piece of large tarp that**
 8 **would have come from Sam's probably, and the brown**
 9 **vinyl that covered it -- brown rubberized product.**
 10 **Q.** And, again, we're using gloves just
 11 because that is standard procedure for all physical
 12 evidence.
 13 What I'd like you to do is stand up and
 14 come over in front of the jury, and bring it with
 15 you. Why don't you come down over here.
 16 And let's start, then, from what would be
 17 closest to the inside of the sweat lodge. You can
 18 go ahead and pick it up.
 19 **A.** **It would be this.**
 20 **Q.** What is it?
 21 **A.** **Looks like a felt. It would be a moving**
 22 **blanket.**
 23 **Q.** That's the moving blanket you've been
 24 referring to?
 25 **A.** **Yes.**

1 **Q.** And then pick up the second layer.
 2 **A.** **That would be just a regular blanket.**
 3 **Q.** Come down a little bit more in the
 4 middle. Go ahead and put it on top of my hand.
 5 Third layer. What is that?
 6 **A.** **That would be one of the canvass tarps**
 7 **that I would have bought from Sherman Williams.**
 8 **Drop clothes. They actually call them a "drop**
 9 **cloth."**
 10 MS. DO: Your Honor, since we're publishing
 11 this to the jury, can we make it clear that these
 12 items have been through forensic testing and are
 13 not in the same condition?
 14 THE COURT: You will be able to do cross on
 15 that.
 16 THE WITNESS: That would be one of the larger
 17 tarps over the top of that.
 18 **Q.** BY MS. POLK: You had talked about black
 19 tarps before. What is that in your hand?
 20 **A.** **It's a gray tarp, and a black -- gray on**
 21 **one side, black on the other. When we would**
 22 **cover -- they're designed that if you're going to**
 23 **have it outside, you would have the gray side**
 24 **reflected, going to the sun.**
 25 **Q.** Which side of that particular tarp would

1 be toward the outside, toward the sun?
 2 **A.** **Like that. There was a vinyl one, the**
 3 **large rubberized vinyl tarp that my wife ordered.**
 4 **Q.** And for this last brown vinyl, is that
 5 what is seen in the photographs on the outside of
 6 the sweat lodge?
 7 **A.** **Yes, it is.**
 8 **Q.** Go ahead and have a seat again.
 9 Do you know, Mr. Hamilton, in terms of
 10 the number of layers, how many layers were used?
 11 First of all, were the same number of layers used
 12 for each sweat lodge ceremony?
 13 MS. DO: Objection, Your Honor. Foundation.
 14 THE COURT: Sustained.
 15 **Q.** BY MS. POLK: Do you recognize --
 16 specifically recognize all of those coverings?
 17 **A.** **Yes.**
 18 **Q.** And how do you specifically recognize all
 19 of those coverings?
 20 **A.** **At one time or another, I saw them in the**
 21 **pump house or I saw them on a -- the pump house**
 22 **would be -- I was -- I don't know if I was ever**
 23 **there when they were actually covering it. From**
 24 **being in the pump house and having purchased -- you**
 25 **know -- some of the items.**

1 MS. POLK: Your Honor, what time do you want
2 to take the afternoon break?

3 THE COURT: This would be fine.
4 Members of the jury, we will take the
5 afternoon recess at this time. Please be
6 reassembled in 20 minutes. It will be about 20
7 after.

8 Mr. Hamilton, you are excused at this
9 time as well. Remember the rule of exclusion I
10 discussed with you.

11 We are in recess.

12 (Recess.)

13 THE COURT: The record will show the presence
14 of Mr. Ray, the attorneys, the jury. Mr. Hamilton
15 is on the witness stand.

16 Ms. Polk?

17 MS. POLK: Thank you.

18 Q. Mr. Hamilton, I had asked you about the
19 contract between James Ray International and Angel
20 Valley for 2009. And then you had told the jury
21 that no contract had been negotiated for the
22 following year, which would be 2010.

23 Do you recall that?

24 A. I do.

25 Q. Do you know where -- do you know whether

1 James Ray International planned to hold a Spiritual
2 Warrior 2010 event?

3 MS. DO: Objection. Foundation, Your Honor.

4 THE COURT: If you can answer that, you may.

5 THE WITNESS: I do.

6 Q. BY MS. POLK: And how do you know that?

7 A. Talking with Megan Fredrickson.

8 Q. Had you had discussions with Megan
9 Fredrickson about whether James Ray International
10 would hold Spiritual Warrior 2010 at Angel Valley?

11 A. I did.

12 Q. And was there a plan in place for James
13 Ray International to hold Spiritual Warrior 2010 at
14 Angel Valley?

15 A. No.

16 MS. DO: Objection. Calls for hearsay, Your
17 Honor.

18 THE COURT: Overruled.

19 The answer will stand.

20 Q. BY MS. POLK: Do you know where James Ray
21 International planned to hold Spiritual
22 Warrior 2010?

23 A. I do.

24 Q. Where was that?

25 MS. DO: Objection. Calls for hearsay.

1 THE COURT: Sustained as to foundation.

2 Q. BY MS. POLK: How do you know where James
3 Ray International planned to hold Spiritual
4 Warrior 2010?

5 A. From Megan Fredrickson.

6 Q. Where was that?

7 MS. DO: Objection, Your Honor. Calls for
8 hearsay.

9 THE COURT: Sustained.

10 Q. BY MS. POLK: Did you ever have any
11 conversations with Megan Fredrickson about the size
12 of the sweat lodge at Angel Valley?

13 A. I did.

14 Q. When did you have a conversation with
15 Megan?

16 A. Before we built the one that could
17 accommodate 75 people.

18 Q. Will you move the mic closer to you.

19 A. Before we built the one that could
20 accommodate 75 people. I'm not sure what year. I
21 want to stay 2006.

22 Q. What was that conversation with Megan?

23 MS. DO: Objection, Your Honor. It's hearsay.

24 THE COURT: Sustained.

25 MS. POLK: Your Honor, it goes to why a larger

1 sweat lodge structure was built for 2008.

2 THE COURT: Sounds like hearsay. What would
3 be the basis?

4 MS. POLK: It goes to the reason why a bigger
5 sweat lodge is built. Not offered to the truth of
6 what Megan said, but why the larger sweat lodge was
7 built.

8 THE COURT: With that limited purpose, not
9 offered for the truth, you may answer, sir.

10 THE WITNESS: Okay.

11 Q. BY MS. POLK: You had a conversation with
12 Megan Fredrickson about the size of the sweat
13 lodge?

14 A. I did.

15 Q. What year was that?

16 A. I want to say -- best I can say is around
17 2006.

18 Q. And what did Megan Fredrickson tell you
19 about the size of the sweat lodge in 2006?

20 A. They needed one to accommodate 75 people.

21 Q. Did the sweat lodge that you had at Angel
22 Valley at that time accommodate 75 people?

23 A. No.

24 Q. Did you offer options to Megan

25 Fredrickson rather than one large sweat lodge?

1 **A. I did.**
 2 MS. DO: Objection, Your Honor. Now goes
 3 beyond the scope.
 4 THE COURT: Overruled.
 5 That answer stands.
 6 **Q. BY MS. POLK: What did you tell Megan**
 7 **Fredrickson about options to accommodate 75 people?**
 8 **A. I said we did not feel good, didn't feel**
 9 **right, building a sweat lodge that large. We knew**
 10 **nobody at that time that could build one. And I**
 11 **said, well, James, please do two lodges.**
 12 **I said, will you please check with him.**
 13 **Okay. I'll check with him. A day or so**
 14 **later she says that James wants to do one event,**
 15 **with everybody in the sweat lodge at the same time,**
 16 **the energy at one time.**
 17 **Q. And what did you do, then, as a result of**
 18 **that conversation with Megan?**
 19 **A. Took some time to debate how we were**
 20 **going to do it. And that would have been the same**
 21 **time that I met the man from Prescott, that I said**
 22 **I need a lodge big enough to accommodate 75 people.**
 23 **Q. I want to just back up again, just touch**
 24 **a little bit more on any sort of products or**
 25 **chemicals used at Angel Valley. You had mentioned**

1 to the jury the D-Con, the One Bite, and the JRI
 2 Eat Um Green (sic). Did you use all of those
 3 products at the same time?
 4 **A. In 2006 when I put them on my truck, yes.**
 5 **I put all three of them on. Because I didn't know**
 6 **what they were going to eat.**
 7 **Q. Do you recall after 2006 if you ever used**
 8 **those products?**
 9 **A. I used the One Bite. That was the one**
 10 **that appeared they liked the most.**
 11 **Q. And that ultimately was used where?**
 12 **A. In the pump house.**
 13 **Q. Is there a garden at Angel Valley?**
 14 **A. There is.**
 15 **Q. How long have you had a garden there?**
 16 **A. I would say since 2003, 2004.**
 17 **Q. Do you have insects in that garden?**
 18 **A. We do.**
 19 **Q. Do you undertake some effort to control**
 20 **the insects?**
 21 **A. No.**
 22 **Q. Do you do anything to work -- eradicate**
 23 **or get rid of insects in your garden?**
 24 **A. Yes.**
 25 **Q. What do you do?**

1 **A. We plant a certain amount and actually**
 2 **let the animals -- say that's your part. This rest**
 3 **is -- leave it alone. And that has been the**
 4 **extent. And trusting that, whatever we're supposed**
 5 **to get, we get. Whatever the animals get, they**
 6 **get.**
 7 **Because we were focused on an organic**
 8 **garden, and this year we will do things**
 9 **differently. But back then it was just trusting**
 10 **that what we had is what we had.**
 11 **Q. I'd like to unwrap some more of the**
 12 **samples that were taken from the sweat lodge from**
 13 **October of 2009 and have you identify them as well.**
 14 **A. Okay.**
 15 **Q. I'm going to ask the detective if he will**
 16 **open Exhibit 899.**
 17 **I'd like you to put on the gloves and**
 18 **take a look at what is in Exhibit 899. Just ask**
 19 **you to look in there and tell me if you recognize**
 20 **that?**
 21 **A. I do.**
 22 **Q. What do you recognize it to be?**
 23 **A. Coverings for the sweat lodge.**
 24 **MS. POLK: Your Honor, I move for the**
 25 **admission of Exhibit 899.**

1 MS. DO: No objection.
 2 THE COURT: 899 is admitted.
 3 (Exhibit 899 admitted.)
 4 **Q. BY MS. POLK: Let's take it out of the**
 5 **container. Let's go stand in front of the jury**
 6 **again.**
 7 **Mr. Hamilton, do you know what part of**
 8 **the sweat lodge these samples were taken from?**
 9 **A. That would be the underside.**
 10 **Q. But the entire sample. Would you know or**
 11 **would Detective Diskin know?**
 12 **A. That's the top. It was a sandwich.**
 13 **Q. Okay. Pick up the first layer and just**
 14 **tell the jury what that is.**
 15 **A. The felt, moving blanket.**
 16 **Q. And the second layer?**
 17 **A. Felt, moving blanket.**
 18 **Q. The third layer?**
 19 **A. Regular cotton blanket.**
 20 **Q. Do you know what that is?**
 21 **A. Some type of material. Some type of**
 22 **blanket.**
 23 **Q. And the next layer?**
 24 **A. Moving blanket.**
 25 **Q. Is it a different sort of moving blanket**

1 than what we looked at before?

2 **A. Yes.**

3 **Q.** The next layer?

4 **A. Quilt.**

5 **Q.** Quilt for a bed?

6 **A. Yes. A canvass drop cloth like what**

7 **painters use and same type of material, drop cloth;**

8 **drop cloth; drop cloth again; regular tarp; and**

9 **then the brown covering, the top covering.**

10 **Q.** Mr. Hamilton, do you know why this

11 particular sample has more layers in this than the

12 first one we looked at?

13 **A. Ted put more coverings on that one than**

14 **the other one.**

15 **Q.** MS. POLK: We'll look at the next one.

16 Let's take a look at Exhibit 901. Can you get the

17 lid off that exhibit? Take a look in there and see

18 if you recognize what's in there.

19 **A. Looks like the same coverings we just**

20 **looked at.**

21 MS. POLK: Your Honor, I move for the

22 admission of Exhibit 901.

23 THE COURT: Ms. Do?

24 MS. DO: No objection, Your Honor.

25 THE COURT: Exhibit 901 is admitted.

1 (Exhibit 901 admitted.)

2 **Q.** BY MS. POLK: Again, just show the jury

3 what would be the inner and what would be the outer

4 layer.

5 **A. This would be the outer layer, the top**

6 **layer. That would be what people would be closest**

7 **to.**

8 **Q.** This first inner layer. What is that?

9 **A. Moving blanket.**

10 **Q.** When you look at the backside, you see

11 some --

12 **A. Some printing.**

13 **Q.** And walk down so the jury can get a look

14 at that one. And then the next layer is what?

15 **A. Just a regular blanket.**

16 **Q.** And the next layer?

17 **A. Drop cloth, drop cloth, drop cloth, tarp,**

18 **and then another tarp and the top vinyl brown.**

19 **Q.** We'll look at one more. Now I'd like you

20 to look at Exhibit 902. And tell me if you

21 recognize what's in Exhibit 902.

22 **A. Same type of material as what we looked**

23 **at.**

24 **Q.** From the --

25 **A. Sweat lodge.**

1 MS. POLK: Your Honor, I move for the

2 admission of Exhibit 902.

3 THE COURT: Ms. Do?

4 MS. DO: No objection, Your Honor.

5 THE COURT: 902 is admitted.

6 (Exhibit 902 admitted.)

7 **Q.** BY MS. POLK: Let's show the jury this

8 one. Again, which would be the outer?

9 **A. This would be the top, and the other one**

10 **would be closest to the people.**

11 **Q.** And that first layer?

12 **A. Moving blanket, felt, just a regular**

13 **blanket, drop cloth, drop cloth, drop cloth, tarp,**

14 **another tarp, another tarp, another tarp, and the**

15 **brown vinyl top.**

16 **Q.** Thank you. Have a seat.

17 All of those coverings that you just

18 showed the jury, Mr. Hamilton -- do you recognize

19 them?

20 **A. I do.**

21 **Q.** What do you recognize them to be?

22 **A. The coverings that were used on sweat**

23 **lodges throughout the years.**

24 **Q.** Throughout what years?

25 **A. I'd say 2005, -6, -7, -8, and -9.**

1 **Q.** Are you familiar, Mr. Hamilton, with the

2 rocks that were heated to create the heat inside

3 the sweat lodges at Angel Valley?

4 **A. I am.**

5 **Q.** And what -- how are you familiar with the

6 rocks?

7 **A. They were gathered along the creek bed on**

8 **our property.**

9 **Q.** Do you know whose direction it was to

10 gather the rocks from the creek bed?

11 **A. In 2009 it would have been mine.**

12 **Q.** Do you know when it was that you began

13 using rocks that were gathered along the creek bed

14 for the sweat lodges?

15 **A. From the very first sweat lodge in 2003.**

16 **Q.** And what kind of rocks are along the

17 creek bed at Angel Valley?

18 **A. We have two -- well, let's say two basic**

19 **kinds. One is more of the volcano, has little**

20 **volcanic rocks and little holes in it that are more**

21 **easily heated up. And you have the smooth, round**

22 **ones that are not good for that. They call -- more**

23 **of a volcanic stone that are just plenty along the**

24 **creek.**

25 **Q.** I'm going to take a look at Exhibit 904.

1 Go ahead and put on another pair of gloves.
 2 Do you recognize what I've just put in
 3 front of you?
 4 **A. I do.**
 5 **Q.** What do you recognize that to be?
 6 **A. That's one of the rocks from along our**
 7 **creek.**
 8 **Q.** Do you know whether this particular rock
 9 was actually used in the ceremony in October
 10 of 2009?
 11 **A. I do not.**
 12 **Q.** Would you defer to Detective Diskin as to
 13 where this particular rock was gathered.
 14 **A. I would.**
 15 MS. POLK: Your Honor, I move for the
 16 admission of Exhibit 904.
 17 THE COURT: Ms. Do?
 18 MS. DO: No objection, Your Honor.
 19 THE COURT: 904 is admitted.
 20 (Exhibit 904 admitted.)
 21 **Q.** BY MS. POLK: Let's take it down and show
 22 the jury.
 23 **A. Volcanic.**
 24 **Q.** Is that sort of rock plentiful at Angel
 25 Valley?

1 **A. Yes.**
 2 **Q.** Go ahead and sit back down.
 3 Do you see that this rock appears to have
 4 some markings and things on it?
 5 **A. I do.**
 6 **Q.** Do you know where that came from?
 7 **A. I do not.**
 8 **Q.** What was your comment about rocks with
 9 holes?
 10 **A. This is more the -- these hold the heat**
 11 **and do not explode as much as the smoother rocks.**
 12 **When they're heated up, they can explode. These**
 13 **will not. Not saying these will never explode.**
 14 **The hotter these get, they hold the heat better and**
 15 **retain the heat.**
 16 **Q.** Is this the preferable rock to heat to
 17 use inside your sweat lodge ceremonies?
 18 **A. Yes.**
 19 **Q.** For the ceremony conducted in sweat
 20 lodges at Angel Valley from the beginning, what
 21 sort of rock have you always used?
 22 **A. The kind I just had.**
 23 **Q.** Other than the cedar log that the jury
 24 saw earlier today, have you burned at Angel Valley
 25 other types of wood for sweat lodge ceremonies?

1 **A. Yes.**
 2 **Q.** What is that?
 3 **A. That would normally be the trees that**
 4 **have fallen down, limbs, branches from the trees**
 5 **that are native to Angel Valley.**
 6 **Q.** And do you know, Mr. Hamilton, whether
 7 any sort of incense or anything is ever put on the
 8 rocks inside the sweat lodge for sweat lodge
 9 ceremonies at Angel Valley?
 10 **A. None that I have been in. So I do not**
 11 **know about other ones.**
 12 **Q.** With regard to the frames used that are
 13 then covered, used to create sweat lodges at Angel
 14 Valley, did you ever obtain any permits?
 15 **A. No.**
 16 **Q.** Over the years?
 17 **A. No.**
 18 **Q.** Were you ever inspected out at Angel
 19 Valley for any of the projects that were done out
 20 there?
 21 **A. Yes.**
 22 **Q.** Did you ever obtain permits for other
 23 projects?
 24 **A. Yes.**
 25 **Q.** Once a frame for a sweat lodge was

1 constructed year to year, as you've explained to
 2 the jury, that frame stayed in place?
 3 **A. It did.**
 4 **Q.** Do you know whether or not that frame was
 5 in place on any given year when inspectors were out
 6 inspecting other projects at Angel Valley?
 7 **A. I do.**
 8 **Q.** Did any inspectors ever make any comment
 9 to you about getting a permit for the sweat lodges?
 10 **A. Never.**
 11 **Q.** Did they see the frames out there?
 12 **A. They did.**
 13 **Q.** I'm going to put up on the overhead
 14 Exhibit 867. I'm going to put up on the overhead
 15 Exhibit 145, that shows the fire in October of 2009
 16 used to heat the rocks for the sweat lodge
 17 ceremony.
 18 Did you ever get a permit for that fire?
 19 **A. No.**
 20 **Q.** Did you ever have the fire marshal
 21 inspect the area where you were heating rocks?
 22 **A. Yes.**
 23 **Q.** Do you know when that was?
 24 **A. No. Amayra would know more about that.**
 25 **Q.** Okay. Will you pull the microphone --

1 **A. No, I do not. And Amayra would know more**
 2 **than I do on that. She talked to the actual fire**
 3 **marshal about getting permits every time we had a**
 4 **fire.**

5 Q. Tell the jury what kind of water is used
 6 at Angel Valley. What's your source of water?

7 **A. We have five wells on the property. And**
 8 **each well is tapping into the aquifer, anywhere**
 9 **from 300 to 500 feet, 600 feet down under the**
 10 **ground.**

11 Q. Is there any other source of drinking
 12 water at Angel Valley other than those wells?

13 **A. No.**

14 Q. Do you bring in, for example, bottled
 15 water?

16 **A. No.**

17 Q. For everybody who comes out to Angel
 18 Valley, is that the only source of drinking water?

19 **A. Yes.**

20 Q. I wanted to talk about October 8th
 21 of 2009. Were you at Angel Valley on that day?

22 **A. I was.**

23 Q. Were you down at the area of this
 24 ceremony when Mr. Ray began his ceremony?

25 **A. No.**

1 Q. Did you ever come down to the scene?

2 **A. I did.**

3 Q. And when?

4 **A. When I saw the helicopters landing.**

5 Q. Pull the microphone back in front of you.

6 Where were you in the afternoon of
 7 October 8th, 2009?

8 **A. In my office.**

9 Q. Do you recall what you were doing?

10 **A. Paperwork, answering the phone, covering**
 11 **things that needed to be done in the office.**

12 Q. At some point were you alerted to an
 13 issue down at the sweat lodge site?

14 **A. I was.**

15 Q. How were you first alerted?

16 **A. My wife, Amayra, called me.**

17 Q. She called you?

18 **A. Yes.**

19 Q. On the telephone?

20 **A. On the telephone.**

21 Q. Do you know where Amayra was when she
 22 called you?

23 **A. In the utility building I talked about**
 24 **earlier. There is a phone in there.**

25 Q. Do you recall what time it was when

1 Amayra called you?

2 **A. Not offhand. No.**

3 Q. And what did Amayra say?

4 **A. She said, he did it again.**

5 MS. DO: Objection, Your Honor. Hearsay.

6 Motion to strike.

7 THE COURT: Sustained.

8 Q. BY MS. POLK: After a call from Amayra,
 9 did you go down to the site?

10 **A. No.**

11 Q. When did you go -- what made you go down
 12 to the site?

13 **A. When I saw the helicopters flying in.**

14 Q. How did you become alerted to the fact
 15 that there were helicopters?

16 **A. The sound. The sound of the helicopters**
 17 **flying in. I thought oh shit. Excuse the**
 18 **expression.**

19 Q. What did you do once you heard
 20 helicopters?

21 **A. I ran down.**

22 Q. What did you see?

23 **A. Chaos, people laying around. And I went**
 24 **around the back of the tent, and I saw two people**
 25 **that had -- by that time, had a automatic breathing**

1 **apparatus on. And I later found out that was Kirby**
 2 **and James.**

3 Q. Did you know Kirby Brown before you
 4 learned that she had passed away?

5 **A. No.**

6 Q. Did you know James Shore before you
 7 learned he passed away?

8 **A. No.**

9 Q. Do you recall what you specifically did
 10 at the scene?

11 **A. I went down and looked around. And**
 12 **everybody seemed to be busy doing things. That did**
 13 **not seem to be at that moment something I needed to**
 14 **do. So I said, okay. I'm going out to the gate**
 15 **and watch the gate, make sure no looky loos were**
 16 **coming to the property.**

17 **And the detective -- one of the**
 18 **detectives said, yes. Watch the gate. Only lead**
 19 **people in that are from the fire department.**

20 Q. When you arrived down at the scene, was
 21 law enforcement already present?

22 **A. Yes.**

23 Q. And ambulances as well?

24 **A. Yes.**

25 Q. Did you have the opportunity to look at

1 an aerial video of Angel Valley prior to taking the
2 stand?
3 **A. I did.**
4 **Q.** Did you recognize it to be taken on
5 October 8th of 2009?
6 **A. I do.**
7 MS. POLK: Your Honor, Counsel has agreed to
8 stipulate to the admission of Exhibit 815.
9 THE COURT: 815 is admitted.
10 (Exhibit 815 admitted.)
11 MS. POLK: I'd like to play it for the jury.
12 THE COURT: Okay.
13 (Exhibit 815 played.)
14 **Q.** BY MS. POLK: Mr. Hamilton, the scene
15 that is up on the screen right now -- do you see to
16 the far side of the sweat lodge this area here?
17 **A. Yes.**
18 **Q.** And what is that?
19 **A. Those are the logs.**
20 **Q.** And the piles that are behind it -- what
21 are those?
22 **A. Those were just other logs that were**
23 **brought in, other lumber, other timber that had**
24 **fallen down.**
25 **Q.** Is that the area you had testified about

1 before --
2 **A. No.**
3 **Q.** What is that, then?
4 **A. That is just a pile of lumber that was on**
5 **the other side that we had never had time to cut**
6 **up.**
7 **Q.** Did that aerial give an accurate
8 portrayal of the site of the sweat lodge after
9 Mr. Ray's ceremony on October 8th, 2009?
10 **A. It did. Yes.**
11 **Q.** Do you recall how long you were down at
12 the scene?
13 **A. Do you want to rephrase that? Do you**
14 **mean right at the site or all over the property?**
15 **Q.** At the site of the sweat lodge itself.
16 How long did you stay down there?
17 **A. Probably 10 or 15 minutes before I went**
18 **to the gate.**
19 **Q.** And then were you present when
20 participants who had been inside the sweat lodge
21 left for their rooms?
22 **A. I can't say I actually saw anybody**
23 **walking away. I was floating around, driving back**
24 **and forth on the golf cart.**
25 **Q.** Did you stay at Angel Valley that night?

1 **A. I did.**
2 **Q.** Did you ever go to the hospital?
3 **A. I did.**
4 **Q.** When did you go to the hospital?
5 **A. I want to say between 8:00 and 9:00.**
6 **There were people that were being released that**
7 **needed to be picked up. I made two trips into**
8 **Sedona to the hospital and brought people back to**
9 **Angel Valley.**
10 **Q.** And people being who?
11 **A. The participants that had been taken by**
12 **ambulance to the hospital. We had a phone call,**
13 **and they said, is anybody here able to go in and**
14 **get people from the hospital? Mike Barber, one of**
15 **the participants, or the media person, he went and**
16 **I went. I don't know if anybody else drove up. He**
17 **and I were making runs to the hospital bringing**
18 **people home.**
19 **Q.** Which hospital did you go to?
20 **A. The one in Sedona.**
21 **Q.** Do you know how many times you went?
22 **A. Twice.**
23 **Q.** Do you know how many participants you
24 brought back to Angel Valley?
25 **A. Not offhand.**

1 **Q.** Did you ever gather in the dining room
2 that evening?
3 **A. I floated in and out of the dining room**
4 **to make sure -- I was going around finding out if**
5 **there is anything I can do -- you know -- talking**
6 **to the kitchen staff, talking to the people out**
7 **front. My wife was floating around. She was more**
8 **hands on. I was going between there, back to the**
9 **site, back to the gate, just circling and doing**
10 **whatever I could.**
11 **Q.** What sorts of things did you find to do?
12 **A. Basically, the first one was to go to the**
13 **gate and make sure I was there until there was an**
14 **actual sheriff that was assigned to the gate to let**
15 **people in and out.**
16 **Because we did have one person that came**
17 **on the property with a fireman's hat or uniform on.**
18 **Turned out he was just a photographer wanting to**
19 **take pictures. And the police seized his camera.**
20 **And I believe they arrested him.**
21 **There was a guard at the gate the rest of**
22 **the evening. I went back and forth. And at one**
23 **point I made a few errands, a few trips for James,**
24 **down to his room to get some things that he needed.**
25 **Q.** For Mr. Ray?

1 **A. Mr. Ray.**

2 **Q.** Did you ever stop in the dining room and
3 observe who was there?

4 **A. Yes. Every time I went down, I went in
5 and out of the dining room.**

6 **Q.** Who was in the dining room?

7 **A. Most of the participants and a number of
8 detectives that were taking witness statements.**

9 **Q.** Your employee, Fawn Foster -- did you
10 talk to Fawn that night?

11 **A. I know at one time I went down. I guess
12 the first time I went to the sweat lodge, I gave
13 her a hug. And I said, Fawn. I said, everything
14 will work out. Everything happens for a reason.**

15 **Q.** What was Fawn's emotional state when you
16 gave her that hug?

17 **A. Very upset, very upset, in tears, just
18 upset.**

19 **Q.** And did Fawn tell you why she was upset?

20 **A. Because of what happened. She said it
21 never should have happened.**

22 MS. DO: Your Honor, objection. Hearsay.
23 Motion to strike.

24 THE COURT: Sustained.

25 **Q.** BY MS. POLK: Do you recall,

1 Mr. Hamilton, whether you at some point contacted
2 Detective Diskin and suggested to him that he
3 should interview Fawn Foster?

4 **A. I did. Yes, I did.**

5 **Q.** Do you recall when that was?

6 **A. It would have been -- the exact date no.
7 I do not.**

8 **Q.** And without telling the jury what Fawn
9 Foster had said to you, was the conversation you
10 had with Fawn the reason why you contacted
11 Detective Diskin to talk to Fawn Foster?

12 **A. Yes.**

13 **Q.** That night what time did you go to bed?

14 **A. Between 1:00 and 1:30.**

15 **Q.** Did you see Mr. Ray at the office or the
16 gift shop location of Angel Valley before you went
17 to bed?

18 **A. I did.**

19 MS. DO: Objection. Relevance and 403, Your
20 Honor.

21 THE COURT: Overruled.

22 That answer will stand.

23 **Q.** BY MS. POLK: I've just used the word
24 "gift shop." Will you describe for the jury what
25 the gift shop at Angel Valley is.

1 **A. We have a two-story building. The top
2 part is where we had the offices, the phones.
3 People would come in. They would sign in,
4 register. The lower level is where we had the gift
5 shop. People could buy cards, books, crystals,
6 whatever they were guided to purchase. That was
7 downstairs.**

8 MS. DO: Your Honor, may we approach?

9 THE COURT: Yes, you can.

10 Ladies and gentlemen, please feel free to
11 stand and stretch.

12 You as well, Mr. Hamilton.

13 (Sidebar conference.)

14 THE COURT: Go ahead.

15 MS. DO: Your Honor, I'm not sure where
16 counsel is going with this. But I fear she's going
17 into postconduct -- postsweat lodge conduct, which
18 this Court has already indicated is irrelevant and
19 goes into character evidence. I don't see the
20 relevance of this line of inquiry.

21 THE COURT: Ms. Polk, go ahead.

22 MS. POLK: Well, first of all, I don't believe
23 that the Court has ruled that this evidence is not
24 relevant. Mr. Hamilton will testify that he saw
25 Mr. Ray with his staff at that gift shop area

1 around 11:00 p.m. and that the next morning they
2 were gone. And his efforts to attempt to provide
3 information to law enforcement about next of kin so
4 that next of kin could be notified about the
5 deceased, and how Angel Valley had no next of kin
6 information, no emergency contact information, and
7 that Mr. Ray and his staff were not there to
8 provide that for them.

9 MS. DO: I don't see how that's relevant to
10 the charges of manslaughter, Your Honor. My client
11 has a Fifth Amendment right. At that point
12 sheriff's had already descended on the scene. And
13 I believe the information conveyed to my client was
14 that they were investigating a homicide.

15 My client, on the advice of counsel,
16 declined to speak to them. This clearly is a 403
17 and Fifth Amendment issue. The evidence that
18 counsel wants to elicit is irrelevant to the
19 elements of the charge.

20 MS. POLK: Your Honor, first of all, this is
21 not police conduct. This -- or contact. This is
22 Mr. Hamilton's contact with Mr. Ray and his staff
23 at 11:00 p.m. at the gift shop. And evidence about
24 what a defendant does immediately following the
25 commission of offense is directly relevant, and

1 it's always admissible.

2 THE COURT: I think there is -- I don't agree
3 with that. There is a lot of times postevent
4 conduct can be relevant --

5 MS. POLK: Your Honor, this goes to his state
6 of mind, the state of mind of the staff, who leave
7 the area that night. And they don't come back.
8 It's Mr. Hamilton and Mrs. Hamilton who have to
9 attempt to identify who the victims are and then
10 assist law enforcement in notifying next of kin.

11 THE COURT: I know I ruled that what happens
12 actually going on with the event is relevant. And
13 that's all been coming in. What Mr. Ray does, what
14 he says -- excuse me -- where he goes, what he
15 says, all those things.

16 But this would be, basically, trying to
17 show that these are -- the implication would be
18 these are careless people who don't care about
19 people. And I don't see how that would be relevant
20 to causation at all, Ms. Polk.

21 Just seems we go to that same kind of
22 general evidence of -- you know -- these are bad
23 people. They don't care about people. I'm having
24 trouble seeing relevance.

25 MS. POLK: Because conduct of a -- of a person

210

1 who commits an offense -- that person's conduct
2 immediately following the offense is relevant to
3 their state of mind with regard to the events.

4 THE COURT: If it's flight, perhaps. And
5 even -- if it is flight, perhaps. And even flight
6 has some fairly rigorous tests to even say that
7 flight is shown. But to say afterwards -- no.
8 It's not admissible.

9 MS. POLK: Your Honor, I understand that
10 ruling. The information about how Mr. Hamilton did
11 not have emergency contact information and what
12 they did to get information to law enforcement to
13 notify next of kin is what I would elicit without
14 any comment, then, on where Mr. Ray or his staff
15 was.

16 THE COURT: Ms. Do?

17 MS. DO: I don't think that's relevant, Your
18 Honor. And I would object on the grounds of
19 relevance and 403. It's 4:00, and we've had direct
20 examination of this witness all day. This goes to
21 absolutely no element of the crimes charged.

22 THE COURT: It really -- it's after the fact.
23 And I -- yes. It's not relevant.

24 MS. POLK: Okay.

25 MR. LI: Your Honor, if I may have one second.

1 I wanted to take this moment, for the record, to
2 move for a mistrial on the basis of the comment
3 on -- just for the record, Your Honor. On the
4 comment "He did it again." I think the jurors -- I
5 saw many jurors writing that down.

6 And I think the jurors need to understand
7 what it means to strike testimony. And I'd ask for
8 an instruction that when the testimony is stricken,
9 they need to understand what it actually means --
10 that they may not consider. It needs to be
11 stricken. It is not considered evidence in this
12 case.

13 And so anyway, I want to preserve the
14 record in that regard.

15 THE COURT: What I did is both times something
16 came up, I just sustained it.

17 MR. LI: The jurors --

18 THE COURT: I understand. And just as soon --

19 Ms. Polk, I need to hear from you when
20 these things come up.

21 MS. POLK: Your Honor, first of all, the jury
22 has heard information and testimony about what
23 happened in 2007 and 2008. I would just request
24 that for now, because the Court has under
25 consideration the motion for reconsideration filed

212

1 by the defense, if the Court rules that information
2 will continue to come in, then I would intend to
3 recall Mr. Hamilton and talk about 2005 anyway.

4 It's not clear. He did it again. It
5 wasn't something I was attempting to elicit. I was
6 attempting to elicit that Mrs. Hamilton was
7 alerting him to come down to the scene.

8 I think at this point in light of all the
9 other testimony that the jury has heard, that it is
10 harmless.

11 THE COURT: I think it goes exactly against
12 what's been my main concern through the whole
13 thing. I've tried to look very carefully at what
14 admissible evidence would be for what I've called
15 "non404(b) purposes" or "intrinsic purposes." And
16 that's the whole thing. This isn't again -- the
17 404(b) showed that this isn't, again, in all
18 respects.

19 I was thinking it was going to be some
20 kind of excited utterance perhaps about what was
21 going on right then or something like that. I was
22 waiting for that foundation. And all we have
23 blurted out is something that was directly against
24 the 404(b) holding.

25 So no. This whole subsequent evidence is

1 not admissible. And I just am hesitant to go back
2 and just flag something with an instruction. It's
3 always a dilemma. If it is going to be done, it
4 has to be done relatively soon.

5 But that was an improper comment. That
6 was an improper statement by that witness.

7 Thank you.

8 (End of sidebar conference.)

9 THE COURT: Ms. Polk, when you're ready.

10 MS. POLK: Thank you, Your Honor.

11 Q. Mr. Hamilton, after the events of
12 October 9 of 2009, were you interviewed by
13 detectives?

14 A. I was.

15 Q. Do you recall when?

16 A. Not offhand. No.

17 Q. Were you interviewed on more than one
18 occasion?

19 A. I was.

20 Q. Do you recall whether you -- did you ever
21 obtain an attorney?

22 A. The insurance company -- yes. We did.

23 Q. And for the first time you were
24 interviewed by the detectives, do you recall
25 whether your attorney was present?

1 A. He was.

2 Q. I'm going to put up on the overhead
3 Exhibit 232. Do you recognize what that is a
4 photograph of?

5 A. I do.

6 Q. Do you see yourself in that photograph?

7 A. I do.

8 Q. Do you know -- tell the jury what this is
9 a photograph of.

10 A. This was a -- it was a photograph taken
11 on Saturday morning as we ceremonially dismantled
12 the lodge and burned the wood. It was a ceremonial
13 taking down of the lodge.

14 Q. Whose idea was it?

15 A. It was a combination of many. My idea
16 was -- all Friday I was so -- call it distraught.
17 I wanted to go in with a chain saw and just cut it
18 up. When my wife heard what I was thinking, she
19 said, no way. The different people that were there
20 said, no way. And I understood that it was a lot
21 better to do it the way we did than I originally
22 wanted to do it.

23 Q. Who is -- ultimately what happened there,
24 then, there was a ceremony?

25 A. There was a ceremony conducted of all the

1 remaining participants that were still on the
2 property at that time. Some of the participants
3 stayed through Friday. Some were still there on
4 Saturday. And Saturday morning we invited them
5 to -- whoever wanted to be part of the ceremony to
6 be part of it. We feel when a tragedy occurs,
7 there needs to be healing, there needs to be
8 something. And we wanted to see what we could do
9 to bring closure to an event that none of us wanted
10 to have happen.

11 Q. Was this ceremony after the detectives
12 had left your property and released the scene?

13 A. Yes.

14 Q. Do you recall how long the ceremony
15 lasted for?

16 A. Until everything was burned. I would
17 guess about two hours, two and a half hours.

18 Q. I'm going to put up on the overhead
19 Exhibit 235. Can you tell the jury what that is.

20 A. That is the wood that originally was
21 making the framework of the whole sweat lodge.

22 Q. And I'm going to put up Exhibit 236. Do
23 you recognize what that is?

24 A. That's the burning of that wood.

25 Q. How long did it take to burn all the wood

1 that made up the frame for the sweat lodge?

2 A. Good hour, hour and a half.

3 Q. Did you get close to that wood when it
4 was burning?

5 A. I did.

6 Q. Did you get sick from being near that
7 fire?

8 A. No. I did not.

9 Q. Did you know Liz Neuman?

10 A. I did.

11 Q. I'm going to put up on the overhead
12 Exhibit 407. Who do you recognize that to be?

13 A. Liz Neuman.

14 Q. Mr. Hamilton, how did you know Liz?

15 A. From repeated visits to Angel Valley.

16 Q. And do you know, Mr. Hamilton, how many
17 times Liz had been to Angel Valley before October
18 of 2009?

19 A. Three, four, five. I'm not sure exactly.

20 Q. And on her visits did you have the
21 opportunity to interact with her?

22 A. I did.

23 Q. Can you describe for the jury her
24 personality.

25 A. To me she was a very loving, caring, very

1 **centered, very grounded, fun-loving person, one**
 2 **that was always friendly and always wanting to take**
 3 **care of others.**

4 MS. POLK: Your Honor, may we approach?

5 THE COURT: Yes.

6 (Sidebar conference.)

7 MS. POLK: I just want to clarify -- I'm
 8 sorry. I just want to clarify the Court's ruling.
 9 Can this witness talk about the various sweat lodge
 10 structures through the years without discussing
 11 problems?

12 THE COURT: Ms. Do?

13 MS. DO: I thought we'd already done that.

14 THE COURT: I did too. I thought we went
 15 through the structures. If it's strictly about
 16 structures, since this case is about structures,
 17 he's in effect --

18 MS. POLK: Let me be more specific. Can he
 19 talk about ceremonies by people other than Mr. Ray
 20 in those structures and that they didn't have
 21 problems. Or is that the area you don't want me to
 22 go into?

23 THE COURT: I think that area is now subject
 24 to a concern, especially in light of Mr. Haddow and
 25 Dr. Mosley and what I've seen and haven't had a

1 chance to read all that. So I think that could be
 2 a possible problem. Just the structure itself, I
 3 don't have a problem with that.

4 Go ahead.

5 MS. POLK: I would -- what I'm requesting is
 6 would the defense be allowed to proceed with
 7 cross-examination, and then I can recall him, if
 8 the Court is going to allow me to go into those
 9 other areas, rather than stop. Just because I hate
 10 to waste time.

11 THE COURT: Is this your last area?

12 MS. POLK: I believe so. Let me just check my
 13 notes. I believe at this point I was going to talk
 14 about other facilitators in those same -- with the
 15 same material, the same structure, who did not have
 16 problems.

17 THE COURT: Isn't that just --

18 MS. POLK: We did with other witnesses but not
 19 with Mr. Hamilton.

20 THE COURT: And these other witnesses were
 21 actually hands on right there and would have the
 22 most direct knowledge. I don't get the impression
 23 that he has that kind of --

24 MS. POLK: To the extent that he would have
 25 knowledge of other ceremonies at Angel Valley and

1 that they had no problems, that's the area I'd be
 2 asking.

3 THE COURT: If you want to check your notes.
 4 But I'm going to recess and -- if you have other
 5 areas to cover, Ms. Polk, go ahead. But before you
 6 go into that, I'm going to recess and leave your
 7 direct open at this point.

8 MS. POLK: Rather than have cross-examination?

9 THE COURT: Yes. Yes.

10 MS. DO: What's the Court's thinking on the
 11 objection Mr. Li raised at the last sidebar
 12 regarding the limiting instruction?

13 THE COURT: In terms of sustained and striking
 14 and --

15 MS. DO: Yeah.

16 THE COURT: I think I need to remind the jury
 17 at the close of the day that when I sustain an
 18 objection -- it might be hearsay, whatever the
 19 basis -- they have to disregard the answer.
 20 Emphasize that. That's what I was going to tell
 21 them.

22 Ms. Polk?

23 MS. POLK: That's fine, Your Honor.

24 THE COURT: Ms. Do?

25 MS. DO: Yes.

1 THE COURT: I don't want to lose time. This
 2 is very important for the rest of the trial, and I
 3 don't want to -- yes. You may have some time. See
 4 if there is any other areas you want to cover.

5 MS. DO: Does that mean -- I'm sorry -- that
 6 the Court will have a ruling likely tomorrow
 7 morning?

8 THE COURT: Oh, yes. Absolutely.

9 MS. DO: Okay.

10 MS. POLK: The state has not had a chance to
 11 respond to the Dr. Mosley information. That was
 12 new to us yesterday. And we have a transcript. We
 13 asked the defense, and you'd agreed to give it to
 14 us. But I'm not sure the status of that.

15 MS. DO: I'm happy to provide it to counsel.
 16 But I will note that Mr. Hughes was on that
 17 telephone call with me.

18 THE COURT: I would like the state to have it.
 19 And as soon as I can get something. That's another
 20 reason to stop a little early, perhaps. Okay?

21 Go ahead and check your notes then,
 22 Ms. Polk.

23 (End of sidebar conference.)

24 Q. BY MS. POLK: Mr. Hamilton, I'm going to
 25 put up -- Mr. Hamilton, this is part of Exhibit 867

1 that has been blown up on the screen. Do you
2 recognize what that is? I can show you the whole
3 photograph if that would make it easier for you.

4 **A. I see a teepee and a cabin and steps**
5 **leading up to it.**

6 **Q.** Do you recognize where that is?

7 **A. At our property at Angel Valley.**

8 **Q.** Those steps. Do you know what those
9 steps are made of?

10 **A. Stone.**

11 **Q.** And then that cabin behind it. Do you
12 recall what that was made of?

13 **A. The wood cabin?**

14 **Q.** Yes.

15 **A. That is out of logs.**

16 **Q.** From which year?

17 **A. 2006.**

18 **Q.** Thank you, Mr. Hamilton.

19 Thank you, Your Honor.

20 THE COURT: Thank you, Ms. Polk.

21 Ladies and gentlemen, we are going to
22 recess for the evening at this time. What I'm
23 going to do, though, first is excuse Mr. Hamilton
24 from the courtroom for this evening.

25 Remember the rule of exclusion. And if

1 you would please step down at this time and wait
2 outside the courtroom.

3 Thank you.

4 Ladies and gentlemen, at times I
5 sustained objections. Sometimes I sustain an
6 objection and also grant a motion to strike. It's
7 really the same when I sustain an objection. When
8 I sustain an objection to a question, you cannot in
9 any way at all -- you cannot consider the answer in
10 any fashion. Really shouldn't consider the
11 question -- can't consider the question, either.

12 So when I sustain an objection, remember
13 that. The question and the answer -- they cannot
14 be considered by you.

15 Okay.

16 Counsel, anything else this evening --

17 MS. POLK: No, Your Honor.

18 THE COURT: -- before I excuse the jury?

19 I'd like the parties to remain for a
20 moment.

21 At this time, ladies and gentlemen, you
22 are excused. Please be assembled at 9:15.

23 Remember the admonition.

24 Thank you.

25 (Proceedings continued outside presence

1 of jury.)

2 As I indicated at the sidebar, I'm going
3 to have the ruling out tomorrow. And also the
4 question Ms. Polk has about continuing with some
5 questions about sweat lodges conducted by persons
6 other than Mr. Ray and making comparisons. And
7 that was a topic, of course, that's related.

8 I have a concern with that topic for a
9 number of reasons, as I've indicated. Also in
10 conjunction with what was the improper statement by
11 the witness, the hearsay statement. So I'm going
12 to continue reading the material I've been given.
13 And I'll address the issue tomorrow at 8:30.

14 Thank you.

15 MS. DO: Your Honor, we want to provide the
16 Court and counsel with a copy of Dr. Mosley's
17 transcript. And with the system down, would it be
18 best to fax it to the Court and counsel?

19 THE COURT: Yes. If you have a hard copy,
20 let's get a copy distributed before people leave.

21 MS. DO: We don't -- we couldn't get on line.

22 THE COURT: Yes.

23 MS. DO: We'll do that this evening.

24 MS. POLK: We're not sure we can receive
25 anything by fax, but we'll talk to defense counsel.

1 MR. LI: Your Honor, for the record, I think
2 everybody has an audiotape of it. Mr. Hughes was
3 there. So while we want to get the transcripts and
4 we're trying to fax them as quickly as possible and
5 we'll do so immediately, they do have the tapes and
6 they do have -- they were there.

7 THE COURT: I have an excerpt. How long was
8 the interview?

9 MR. HUGHES: The primary interview took place
10 Monday, about 45 minutes. There was an additional
11 maybe 20 minutes that I don't believe discussed
12 Dr. Mosley the following day.

13 The issue that we have is our copy of the
14 interview, we recorded it and agreed to provide
15 copies to the defense. We did provide the Monday
16 copy, but they're stored on our server, which
17 because of the virus that's hit the county
18 computers, it's completely unavailable to us at
19 this point.

20 We would be indebted to the defense for a
21 copy of their transcript at this point. In
22 addition, Your Honor, we are working on a brief of
23 it that addresses just the Dr. Mosley issue that
24 was raised. And I was hoping to have that filed by
25 tomorrow morning. I don't know if that's going to

1 be too late for the Court. It won't be very long.

2 It's actually two or three pages.

3 THE COURT: All right. The sooner, the
4 better.

5 MR. HUGHES: I realize that.

6 THE COURT: Ms. Do, if you would assist and
7 see that your office can get a fax to everybody.

8 MS. DO: We will.

9 THE COURT: Mr. Li, you made a motion at
10 sidebar, and I didn't exactly address it. I guess
11 by implication, I'm denying the motion for
12 mistrial.

13 MR. LI: Understood.

14 THE COURT: I think it was a brief reference
15 and -- with the instruction. It's denied at this
16 time.

17 MR. LI: Understood, Your Honor.
18 (The proceedings concluded.)
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1 STATE OF ARIZONA)
2 COUNTY OF YAVAPAI) ss REPORTER'S CERTIFICATE

3

4 I, Mina G Hunt, do hereby certify that I
5 am a Certified Reporter within the State of Arizona
6 and Certified Shorthand Reporter in California

7 I further certify that these proceedings
8 were taken in shorthand by me at the time and place
9 herein set forth, and were thereafter reduced to
10 typewritten form, and that the foregoing
11 constitutes a true and correct transcript

12 I further certify that I am not related
13 to, employed by, nor of counsel for any of the
14 parties or attorneys herein, nor otherwise
15 interested in the result of the within action.

16 In witness whereof, I have affixed my
17 signature this 28th day of April, 2011
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24 MINA G. HUNT, AZ CR No 50619
25 CA CSR No 8335

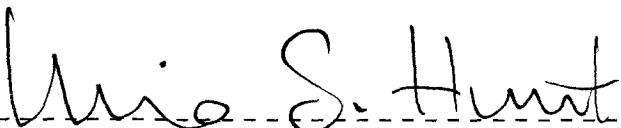
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